

CRIME

AND

*Criminals*



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GRIFFITH J. GRIFFITH,  
Secretary and Treasurer of Prison Reform League.

# CRIME AND CRIMINALS

— BY —

The Prison Reform League



PRISON REFORM LEAGUE  
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BY  
GRIFFITH J. GRIFFITH

To

Leo N. Tolstoy,

THE WORLD'S GREAT INTERPRETER OF THE IM-  
MUTABLE LAW OF INHERITANCE—WHEREBY  
LIKE SPRINGS FROM LIKE, LOVE BEGET-  
TING LOVE AND HATE A PROGENY OF  
HATE—THIS BOOK IS DEDICATED,  
WITH PROFOUND RESPECT,

BY

THE PRISON REFORM  
LEAGUE.

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*"I believe, and I regret to say it, that throughout this country the administration of the Criminal Law and the prosecution of crime are a disgrace to our civilization."*

WM. H. TAFT,  
President of the United States.





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## CHAPTER I.

### CRIME INCREASES

This book deals with crime and the treatment of criminals. It states facts of vital importance to every man and woman, and adds deductions that boldly challenge contradiction. The facts have been gathered from the best governmental and official reports available, and from noted writers who have made this field their special study. The deductions stand on their own logical merits, but are supported by numerous quotations. The work has grown naturally out of the researches set on foot by the Prison Reform League, and, while submitted to the public at large, is designed more particularly for the use of those whose profession is the pen, the pulpit or the platform, in the hope that it may promote a more intelligent discussion of a subject that is calling imperiously for thorough ventilation.

The unwelcome fact that crime — especially in its more violent forms and among the young — is increasing steadily; that it is threatening to bankrupt the nation, and that it, and its treatment, are carrying us back to barbarism, are set out in uncompromising terms, with the evidence attached. The method by which the old school of criminology is endeavoring to solve the problem is then examined, that method being punishment, based on the philosophy of revenge and deterrence — hate and fear. Capital punishment, torture, conditions in our penitentiaries, reformatories and convict camps, the helplessness of the discharged convict, county and city jails, the making of illegal

arrests and the administration of the "third degree," the fee system — under which the income of officers depends on the number of persons they arrest — and the notorious police corruption resulting from all these factors are considered, with the evidence attached.

The position of the new school of criminology now forging to the front is then explained in the simplest terms the writers could command, and the radical departures it involves examined in detail. Under this head comes consideration of such measures as probation, the indeterminate sentence and other reforms with which the reading public is rapidly becoming familiar. Special pains has been taken to demonstrate that these are the inevitable outcome of a new school of philosophy, which refuses to confine its attention to the mere fact that a crime has been committed and insists on penetrating to the causes of the crime. Thus crime and the treatment of criminals are held up to inspection as an inseparable part of a world-wide economic and political problem. And special emphasis is laid on the assertion that the subject-matter of this book carries us to the heart of the social question, for attention must be directed first to the point at which the social machinery has broken down most conspicuously.

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The statements of chiefs of police that the volume of crime is diminishing, thanks to their improved facilities for apprehending malefactors, are not to be credited. In the first place they are interested witnesses, since their positions and prestige depend on convincing their employers that they are more than earning their salaries. In the second place the repu-



tation for veracity enjoyed by the police is of the very worst. This is so universally conceded that it appears almost unnecessary to cite authorities in support of the statement, but we quote from an article in the *North American Review* written in 1901 by Hon. Frank Moss, former commissioner of the police department of New York. The publication is one of unquestionable standing; the writer held a position that put him in the closest touch with facts, and he wrote immediately after the Lexow investigation, which had turned on a flood of light.

The article begins with these words: "The corruption of the police force of New York is a fact that nobody in the city denies seriously. It is believed throughout the nation and over the world. . . . With general unanimity the people lay the derelictions of the police force to great financial and political corruption; the nation and the world approve the verdict." Dealing directly with the all-important question of veracity — all-important because it is the policeman's evidence that frequently convicts — Mr. Moss says: "It is most sad to realize that the police force as a whole has small reputation for truth. Degeneration in moral character has made it necessary to develop a phenomenal power for concealing and denying the truth. The good men are forced into this position by brute force and physical fear. They believe that the man who tells the secrets of the department is doomed to persecution and to ruin."

In an article in the *Century Magazine* of September, 1909, another New York police commissioner, William McAdoo, bears similarly unwelcome testimony, saying in his opening sentence: "On investigation I now find that the high estimation in which

virtually all Englishmen hold the London policeman is in sharp contrast with the reputation of the New York force in both English and American newspapers." And at the date of this writing yet a third late New York police commissioner, Gen. Theodore A. Bingham, is deluging the magazines with articles in which he explains that he was dismissed from office for his strenuous attempts to rescue the police force from the clutches of Tammany. He states specifically (*Century Magazine*, September, 1909,) that "any party that has the control and direction of the police at primary and general elections has an enormous advantage over its opponents," and that in New York city Tammany has such control.

To this all-corroding influence of politics we shall recur again and again, but we deem it at this point quite unnecessary to multiply quotations or pile up evidence on this head. New York does not stand alone in this respect. As a matter of fact it is the second largest city in the world, and its example has enormous weight throughout the country.

As against the entirely unreliable statements of members of the police force we set the result of the careful investigation of this particular subject made recently by congress. Under its special direction Arthur McDonald, specialist in the United States bureau of education, superintended the compiling of a report which was submitted to the senate by Platt of New York, December 3, 1902. It opens with this statement: "It may be said, with few exceptions, that within the last thirty or forty years there has been an increase (relative to population) in crime, suicide, insanity and other forms of abnormality.



This is the general verdict of the official statistics of the leading countries of the world."

This report runs to fifty-five pages, most of which are occupied with tables of official figures covering the United States, Great Britain, France, Germany, Austria, Italy, Belgium, Bavaria and Algeria. It was submitted in connection with a bill to establish a laboratory for the study of the criminal, pauper and defective classes; a plan that had received the official indorsement of three foreign sociological societies, six national, twenty-two state and three city medical societies, four state bar associations, forty ministerial bodies and several other organizations. Reference is made in an appendix that takes up more than twelve pages to a list of modern and authoritative works on criminology. In a word, the report is to be considered exceptionally reliable, and it opens bluntly with the statement we have quoted.

It is to be remembered, moreover, that statistics is now an exact science, and that, while figures pertaining to small areas are often misleading on account of special local factors, when applied on a scale that covers two continents they render results on which we can calculate with confidence. In fact, until the development of statistics as an exact science the study of criminal problems was necessarily little more than guess work, and only after facts had been accumulated on a comprehensive scale, and the scientific conclusions to which they led clearly demonstrated, was it possible for the new school of criminology to come into existence.

Modern invention has given the authorities enormous facilities for the suppression of crime. Brilliantly lighted streets, electric alarms and a thousand

and one appliances for the protection of treasure have rendered the burglar's task incredibly more difficult. The telephone, telegraph and automobile arouse the entire neighborhood within a few minutes of the perpetration of a crime, and bring to the aid of the police hundreds of amateur detectives. Everything seems to be in favor of the authorities and against the criminal, and yet crime is unquestionably on the increase. The philosophy of deterrence is pushed to its utmost; jails are filled to overflowing and conducted with such barbarity that their condition is a standing stock in trade for newspapers when they run short of stories. Periodically, when hard times or severe weather swell the crop of highway robberies, judges attempt to meet the situation by the severest sentences. Yet crime, both against the person and property, is undoubtedly on the increase. Since this is the backbone of the entire question, constituting a problem that society must solve if it is to avoid dissolution, we do not content ourselves with reference to the report already mentioned, but cite the opinions of recognized experts.

Dr. G. Frank Lydston is an authority of the highest rank. His work, "The Diseases of Society", is standard, and in it (p. 31) he says: "Modern statistics, however, tend to show that crime is now increasing faster than population. A comparison of the census of 1850 with the census of 1890 showed that the population had increased 170 per cent. (he is confining himself to the United States), while the proportion of criminals had increased 445 per cent. It must be acknowledged that the actual increase of criminality should be discounted somewhat by legislative increase of crimes. Murder, to be sure, was once frequent, and capital crimes were numerous, but

the total number of acts that were legally considered crimes was small. In modern life many acts that were taken for granted in older systems of civilization are pronounced crimes. Comparing present statistics with the more recent past, this source of fallacy is, however, of little moment."

It will be noticed that Dr. Lydston, as an impartial investigator, makes allowance for the fact that legislatures and city councils are constantly adding to the number of acts for doing any one of which the citizen may find himself within the clutches of the law. He considers, however, that these additional arrests do not materially affect the grand total from which the deduction that crime is on the increase is drawn, and we shall show hereafter that it is in the most serious class of crimes that the growth has been most marked. Nevertheless in calling attention to the feverish activity shown by the governing bodies of today in the matter of multiplying laws he touches a weakness that has attracted general notice from criminologists. For example, W. D. Morrison, in his "Crime and Its Causes", takes special occasion to utter this warning: "In initiating legislation of a far-reaching coercive character politicians should remember far more than they do at present that the effect of these acts will be to fill the jails and to put the prison taint upon a greater number of the population." This tendency to multiply offenses is undoubtedly a reversion to an earlier type, the general rule, as given by Havelock Ellis in "The Criminal", being that "the more archaic the code the fuller and the minuter is its penal legislation." Tacitus passed a similar criticism on pagan Rome shortly before her fall, saying: "The more corrupt grows the state the more laws multiply."

In the report to congress alluded to above it is laid down that crime has increased, in proportion to population, throughout the civilized world, "with few exceptions". The United States, Germany and Italy all show a black record, and particularly as to crimes of violence, as will be explained hereafter, but Austria claims that there was a decrease in her prison population and England and Wales declare themselves freer from crime. The tables for the two last mentioned countries show that in the twenty years from 1874 to 1893 the percentage of those tried in England and Wales for indictable offenses fell from 217 per 100,000 to 194, and analysis discloses the fact that the shrinkage was due to the diminution of crimes against the person, which had shrunk from a percentage of 7.5 to one of 4.9. On the other hand the percentage of crimes against property had risen from 5.82 to 6.47, and crimes against morality were said to have increased. Morrison, however, who is a leading authority on crime in England, considers that the alleged diminution is an illusion, and submits elaborate figures in proof of his general contention. His statement is that "nearly all the chief statisticians abroad (in Europe) tell the same tale with respect to the growth of crime on the continent", and he adds that a similar story comes from the Antipodes. Now comes the report of the commissioners of prisons showing that even in Great Britain crime is on the increase, the number of convictions for various offenses in 1908 being given at 176,602, while this year the total has grown already—October, 1909—to 184,901. It is noted particularly that in the agricultural districts there has been an increase of 25 per

cent. in vagrancy cases, and significant attention is directed to the alarming number of the unemployed.

Frederick A. Wines, whose "Punishment and Reformation" is considered in the United States a leading work, agrees that crime is on the increase, and so does David A. Wells, an American economist of great note.

Setting aside, for the moment, governmental figures, which deal with countries as a whole and are therefore productive of the most reliable general results, since one local fluctuation offsets another, Lydston takes the two largest cities in the United States, Chicago and New York. Writing of the former in 1906 he quotes a report then recently submitted by the Illinois state's attorney as follows: "In volume of business and number of convictions the criminal court of Cook county is the greatest criminal tribunal in the world. More prisoners are arraigned at its bar than in any similar court in the world, including London, with a population of over four million. In the latter city, during the year 1898, the total number of convictions for felonies and misdemeanors was 2659. The total number in Cook county from March, 1898, to March, 1899, was 2819; the following year it was 2837. During the year 1898 there were 3234 persons arraigned in the London court, while from September, 1899, (the court year) the total number of indictments found in Cook county was 3501. From December, 1896, to October, 1900, the grand juries passed upon 16,518 cases, being an average of over four thousand cases each year, and resulting in an average of over three thousand indictments a year."

Of New York Lydston says: "The city of New York has grown wickeder, as shown by the last estimate for ten years. The annual report of the city

magistrates showed that the population of the city had increased 33 1-3 per cent. in the ten years from 1886 to 1896, while crime had increased 50 per cent. Nine magistrates tried 112,160; held 73,537 defendants, and discharged the other 38,623. Arrests for all offenses had increased 50 per cent., with an increase of nearly 90 per cent. in felonies. In 1886 the felonies reached 7021. Female prisoners more than kept pace with the general average, increasing from 412 in 1886 to 722 in 1896."

We shall show hereafter that New York and Chicago are far from leading the country in crime, in proportion to their population.

As a concise statement of the truth we wish to drive home at the very incipency of our task, we quote the following introduction by S. S. McClure to his article on "The Increase of Lawlessness in the United States", published in *McClure's Magazine* of December, 1904. "I print herewith," he says, "comments on the prevalence of crime and lawlessness in the United States, taken almost at random from representative and serious newspapers, and from the published statements of judges and citizens. I also print the statistics of murder and homicides in the United States, which have been collected for twenty-three years by the *Chicago Tribune*. These statistics confirm the general impression regarding the rapid and alarming increase of lawlessness in our country. At present there are four and a half times as many murders and homicides for each million of people in the United States as there were in 1881."

Apart from the statements of witnesses so deeply prejudiced as are chiefs of police, it is true that certain authorities, such as Prof. Henderson of the Chi-



cago University, and President Eugene Smith of the Prison Association of New York, have maintained that the statistics showing the growth of crime are misleading. The weight of authority, however, is distinctly against them, and the United States census tells an alarming story that seems to admit of no contradiction. According to its figures the ratio of prisoners to population rose continuously from one to every 3442 of the population, in the decade from 1850 to 1860, to one to every 757, in the decade from 1890 to 1900.

It is submitted, therefore, that the testimony of unprejudiced experts, backed by reliable statistics, establishes the perilous fact that, despite educational advantages, the creation of wealth on a scale impossible for our ancestors even to have conceived of, and the general refining influences that are supposed to attend civilization, crime is on the increase. That it is intimately connected with the alarming growth of insanity and suicide, with which the report previously alluded to properly brackets it, is admitted by all experts, and the crime problem, therefore, if not speedily solved, means the character ruin of the nation, with the downfall that inevitably follows the destruction of individual and collective character. That it is also at the present moment driving the nation to bankruptcy is the opinion of so eminent an authority as Prof. Charles J. Bushnell of Washington, D. C., who calculates that as a nation we are spending no less than six billions of dollars (\$6,000,000,000) annually for the suppression of crime and are finding it more and more incapable of being suppressed. Prof. Lydston, however, puts the figure at only five billions, and generally we think it may be said that the avenues

through which money disappears in the detection, trial and conviction of prisoners, to say nothing of the maintenance of armies of men paid to prevent the commission of crime, are so numerous that it is impossible to compute with anything approaching accuracy. The question is, however, one of such universal interest that we examine it in somewhat greater detail.

Quite recently the Massachusetts Prison Association has published a pamphlet in which it claims that the crime bill of that state, paid in state, county and municipal taxes, exceeds \$6,500,000 a year, being larger than any other except that of education. This calculation, however, was arrived at by adding up merely the cost of salaries and maintenance of prisons and reformatories; and this seems to omit many most important factors.

Here is a statement by the late J. P. Altgeld, formerly governor of Illinois, which takes a somewhat wider range: "No man," he says, "can examine the great penal system of this country without being astounded at its magnitude, its cost and its unsatisfactory results. There are in the United States upward of 2200 county jails, several hundred lockups or police stations; between fifty and sixty penitentiaries, with workshops, machinery, etc. The first cost of the erection of all these buildings and shops has been estimated at upward of \$500,000,000, which is dead capital, the interest upon which sum alone annually will amount to \$25,000,000. To this must be added the sums annually appropriated out of the treasury to feed the prisoners, pay the officers, judicial and executive, and keep up and maintain all of these institutions, which sums have been estimated at upward



of \$50,000,000, to say nothing of the costs paid by the accused. There are, in addition to the many thousands of policemen and detectives, about 70,000 constables in this country, and about as many magistrates. There are upward of 2200 sheriffs, and in the neighborhood of 12,000 deputy sheriffs.

"Then come the grand juries, petit juries, judges and lawyers; next the keepers and their numerous assistants for all of these prisons, making about a million of men, partly or wholly supporting their families from this source. And, as I am on the list, I may speak with freedom and say that, as a rule, they are comfortable, are anxious to hold on, and ready to defend the system which gives them and their families bread. As a rule keepers of prisons like to see their prisons well filled."

It will be noticed that many new factors are introduced in the foregoing passage, which was written about nineteen years ago. Since then the population of the United States has increased materially, and crime has grown even faster than the population, so that the estimate of a million men, dependent for their livelihood on the apprehension, conviction and detention of criminals, would be today considerably below the mark. Suppose, however, that we put it at a million, for the sake of easy figuring. Probably it would be conservative to calculate that these men make on an average \$1500 a year, which gives one a billion and a half.

Wherever that abomination, the fee system, is in operation — and it is very general throughout the country — it is almost impossible to reach any approximate estimate of the sums made by constables not only from arrest fees, but also from mileage charges

and other incidentals that form the greater part of the bill. Here in Los Angeles county constables were reaping so rich a harvest from the arrest of men on all sorts of charges — a vast proportion of which were unquestionably trumped up — that it was found necessary to limit them to \$1200 a year. But how, for example, are you to calculate the receipts of the sheriff's office in Los Angeles, which is run on the fee system, and is admittedly one of the fattest political plums, the net profits of the term being estimated worth all the way from \$50,000 to \$100,000? What an infamous system; specially designed, one would think, for the miscarriage of justice and for political corruption!

Men universally shrink from jury service, though one must make an exception of the wretched class that constitutes the professional jurymen, eager to serve for the per diem, with such side pickings as may develop. How are you to estimate the loss to business men that the passing of days and months on jury duty entails? And above all, who shall sum up the loss of wealth, from which all of us would benefit, involved by the withdrawal of men from productive employment and their devotion to destructive lives of crime, with the detention at the direct expense of the public which almost inevitably follows? To calculate this is to figure out a great portion of the incalculable waste of a civilization which, in a thousand and one ways, diverts human energy into unproductive or essentially destructive occupations.

Consider again for a moment this army of a million men which makes its living by the apprehension, conviction and detention of lawbreakers, to which the taxpayers contribute at least a billion and a half an-

nually. From the economist's standpoint every member of that army is non-productive, and it must be remembered that as a class these men are sharp-witted and energetic; capable, therefore, of much wealth-producing effort. How are you to estimate the loss from that source alone? All over the world people submit far more gracefully to indirect than to direct taxation. In the latter case they know to a penny the bill which the government presents, but in the former they can only conjecture in the vaguest manner. So it is with the bills presented to us in connection with crime.

At this writing the entire country is watching with breathless interest Tammany's fight for life in New York city, and the struggle has been made the occasion for the appearance of various articles in the leading magazines that throw an awful light on the white slave traffic and the gambling houses and saloons which are the haunts of criminals and prostitutes. We are informed that New York city has become the procuring center of the world; that from it ramify lines of communication with all the principal cities of the United States and points so distant as the mining camps of South Africa. We learn that the trade in female flesh is organized in accord with the most advanced business methods, being operated at an immense number of centers by "cadets" — that is to say, men whose business is seduction and who live by the earnings of their victims, sold at established market rates to the syndicates that conduct the establishments in which they find their final home. Startling revelations are made as to the profits realized by the police through their connivance at and powerful support of this vast and essentially criminal business.

Concluding an article that has been the talk of the east, a great editor, S. S. McClure, of *McClure's Magazine*, says: "There is one thing that will change this, and one only. The local government of cities must be taken from the hands of criminals and purveyors of vice." The entire gist of his indictment is that we are face to face today with the staggering fact that our leading cities are under the rule of organized crime.

Who can estimate the economic loss involved in such conditions; the vastness of the burden beneath which the producer groans? For it is obvious, being the first lesson in political economy, that every dollar that finds its way into the pockets of the non-productive means added toil to the actual creators of wealth. In saying which we do not mean that only he who labors with his hands is a producer, for we rate most highly the productive power of brains, the value of invention, of new suggestions and ideas. But we do mean that everything connected with crime, and vices so flagrant that we are justified in classing them with crimes, is worse than non-productive and constitutes an incalculable burden laid on the brain and hand workers of the world.

Startling, therefore, though the six-billion-dollar-a-year estimate of the cost of crime given by Prof. Bushnell may appear, it may well prove greatly below the actual mark if tested by the golden rule of political economy.

Here, then, is a drain so foul that it is poisoning the very life-blood of society. Unfortunately there are large numbers of persons financially interested in thwarting all inspection of the drain, and by wealth and official position they wield immense influence.

This, however, is an era of investigation, and even into the gloom of the prison some rays of light begin to penetrate.

Black though the immediate outlook may appear, and herculean though the task of reformation unquestionably will prove to be, the silver lining already begins to show behind the cloud. For, certain as it is that no substantial improvement can be effected until public opinion shall have been clamorously aroused, it is equally certain that no iniquity can hold its own permanently against such a flood of hostile criticism as that now pouring in from every point. Modern literature has marked our treatment of crime and criminals as its special target, and therein lies the assurance of changes fully as thorough as any advocated in these pages.

## CHAPTER II.

### CAPITAL PUNISHMENT

"One must live," cried a poor wretch, pleading before M. de Talleyrand. "I do not see the necessity," was the cold reply. Masked in courtly phrases, such as "law and order must be maintained", or "the dignity of the state must be vindicated", the attitude of the old school of criminology has been from time immemorial that of M. de Talleyrand. It recognizes only one fact, that the law has been broken. Why it was broken; what the causes may be that produce a class of habitual law-breakers—all this lies beyond the scope of its inquiry.

There can be no philosophy of criminology so long as the investigation of the problem is confined arbitrarily to a single factor: the mere incident that a crime has been committed and the rules of social order violated. Investigation is brought immediately to a halt, and there remains only the question of the punishment to be inflicted. And this is how the matter stands even today, save for certain modifications that the new school of criminology has been sufficiently powerful to force into acceptance. Up to quite a recent date the sole question asked by those who administered the law has been, "How much shall we punish?" and that is still the main question. The other query, "Why should we punish?" belongs to a future that is yet unborn, and will be considered in full when we review the philosophy and methods of the new school.

Punishment itself unquestionably has passed through three stages, the first of which was revenge; the "eye



for an eye and a tooth for a tooth " of the Mosaic and a prior dispensation. This is the primitive idea; Othello howling "Blood, Iago! Blood!" The family, the survivors of the clan, obtain no compensation through the death of the offender, but their lust for vengeance is appeased and their honor retrieved. This primitive type is not yet extinct. It flourishes under the form of capital punishment, whether administered with due legal formalities by the state, or informally by the mob. One still catches its echo in such expressions as "Justice must be avenged".

The second stage is deterrence, terrorism, the attempt to stamp out criminality by fear. Judges who resort to exceptionally severe sentences in the hope of stemming waves of crime show themselves still under the influence of this philosophy.

The third and last stage is that of reformation, marking a public conscience that, having become more civilized, has grown uneasy. Influenced by the reminder from the modern and scientific school that not only the commission of the crime but also the conditions that made the criminal must be considered, society asserts that while inflicting punishment it wishes by so doing to reform the offender.

The first stage, that of revenge, as illustrated by capital punishment, will be the subject of this chapter. Necessarily we shall draw on the history of the past, but not at any length, since the facts are generally admitted and we have no taste for piling up horrors for the sake of horror.

Going back barely a hundred years we find execution one of the commonest forms of punishment. The lower the civilization the less the value placed on in-

dividual life. The best method of dealing with an offender is to kill him; it is the quickest and cheapest way out of the difficulty.

England stood in the front rank of civilization, and, since the outlines of English history are very generally known, we go to her for illustrations. Whatever barbarities her authorities committed were more than matched in Europe, many of whose countries still tolerate, as do certain sections of the United States, the application of torture which England long ago abandoned.

When, under Henry VIII of Great Britain, the monasteries, which had been largely almshouses for the needy, were abolished; when the towns' guilds, which also had been to a great extent charitable institutions, were broken up, and when lands that had been used as "commons" from time immemorial were distributed in huge quantities among the King's favorites, the peace of the country found itself violently disturbed by the beggars who necessarily swarmed upon the highways. It was with desperate energy that his successor, Elizabeth, essayed to suppress the evil by the notorious Vagabondage acts, under which frightful penalties in the shape of hangings, brandings, floggings and other forms of torture were inflicted on the unfortunate who found him or herself under the necessity of living. Modern historians, with the wisdom that comes so readily after the event, point out that these attempts were, by the very law of life, predestined to the failure which they actually met, but the impulse once generated continued almost unabated until about a century ago, at which date the English code contained 223 offenses punishable with death.



Executions had become, as bull-fighting is today in Spain and Mexico, a national amusement, and it was noted that pickpockets found their richest harvest in the crowds gathered to see members of their own craft put to death.

John Howard's voice was the first to make itself heard, in the latter part of the eighteenth century, in protest against the general indifference to this reign of blood, and the movement he started continued under the leadership of such men as Romilly, Brougham and Wilberforce until a clean sweep was made of the whole brutal business that, by its failure to check crime and by its demoralization of the public, had proved worse than useless.

How great that demoralization must have been may be shown perhaps with some propriety here by a transcript of the sentence passed on Algernon Sidney, who was convicted in 1683 of the crime of high treason. The form of the sentence was the one in universal use and runs as follows: "That you be carried hence to the place from whence you came, and from thence you shall be drawn upon an hurdle to the place of execution, where you shall be hanged by the neck, and being alive, cut down; your privy members shall be cut off and burned before your face; your head severed from your body and your body divided into four quarters, and they to be disposed at the pleasure of the King. And the God of infinite mercy have mercy upon your soul." An attribute was generously ascribed to the deity which certainly neither the English authorities nor those who gloated over their sentences possessed.

We are now considering the primitive stage of punishment — revenge, as illustrated by the imposition of

the death penalty — and in chapter XI, when summing up the effects of the philosophy of deterrence, or the appeal to fear, we shall have much to say as to the influence that the state exerts on the public when it resorts to taking life. We shall then show that it is an immutable law of life that like begets like and that violence on the part of the authorities generates violence among the masses, as proved irrefutably by statistics covering various sections of the United States. It seems, however, convenient at this point to enlarge on the demoralization that follows in the wake of capital punishment, since all thinking persons will agree that whatever tends to excite passion and cruelty tends to lower the general level of morality and makes for crime. Sowing the wind we reap the whirlwind. Here then is an account by an American writer of an execution fiesta in Pennsylvania last century, which met, however, with unexpected interruption:

“All eyes in the living mass that surrounded the gibbet were fixed on the victim's countenance, and they waited with strong desire the expected signal for launching him into eternity. When it was at last announced that a reprieve had left them no hope of witnessing his agonies their fury knew no bounds, and the poor maniac — for it was discovered that he was insane — was with difficulty snatched by the officers of justice from the fate which the most violent among them seemed determined to inflict.”

So admittedly injurious to good morals were such spectacles that publicity was finally abandoned and for many years past all legal executions, both in this country and in England, have taken place within the prison walls, officials and reporters being usually the

only persons allowed to be present. This change was in itself a recognition of the fact that the possibly deterrent effect of inflicting the death penalty before the eyes of the populace was more than outweighed by the brutality engendered. But surely, if the effect on the public is bad that upon the prison officials themselves cannot be wholesome, and this consideration is one of great importance, since this is the very class that has the lives and reformation of countless prisoners absolutely at its mercy. A well-known Pacific coast writer, Mr. James T. Griffes, has left an account of how he reported, in 1892, for the *San Francisco Call*, an execution in San Quentin, and he tells us that during the strain of the lengthy preparations, apparently prolonged with the greatest deliberation, he all but fainted. Bethinking himself, however, of the injury to his reputation as a reporter that would follow, he pulled himself together, "marched with the rest of them, drank in every detail of the black thing, and, as the drop fell, gloated with the others and would gladly have seen it all over again." His account of the banquet in the warden's room that followed, with the criticisms passed on the dead man's behavior and reminiscences of other executions participated in by those present, would make too unpleasant reading.

Psychology is now a recognized science, and it is generally acknowledged that suggestion is a force to which we have been singularly blind. Is it conceivable that the suggestions raised by the cold-blooded murder effected by the state are healthful? Upon this point we quote Col. Griffith J. Griffith, who had his own experiences in San Quentin. He says: "While I was in San Quentin half a dozen executions

took place. With some forty others I was locked in the laundry, all convicts being on such occasions shut up in their cells or in the various workshops. The thud of the falling body was in each case distinctly audible, jarring the entire building. There is a silence that is far more eloquent than any speech, and in the long hush that preceded the actual deed the thought that was busy in the minds of my fellow-prisoners was to be read easily on their faces. I can bear more direct testimony to the universal comment that succeeded, whenever opportunity for discussion came. It ran invariably on the strain that the state had committed another murder, with the corollary — ‘If the state may kill, why not we?’ That such sentiments — engendered, you must remember, under circumstances in which they necessarily leave the profoundest and most lasting mark — can be other than poisonous to our public thought is, to me at least, incredible.” That Col. Griffith’s judgment is sustained by the actual facts the figures on crimes of violence given in a succeeding chapter will demonstrate.

Throughout this chapter we are treating capital punishment as the modern example “*par excellence*” of punishment of the most primitive type; that dictated by the philosophy of revenge, the desire to get even. For it goes without saying that we cannot pretend to any anxiety to reform a man when we proceed to hang him,\* and the argument for deterrence was reduced to a mere shadow when the feature of

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\*Recently a lawyer, sentenced to be hanged in the Oregon State penitentiary, made this argument the basis of his appeal, claiming that the purpose of the penitentiary was declared by law as being for reform and not for punishment, and that hanging was not a measure of reform. The Supreme Court over-ruled the plea.

publicity was abolished. But in dealing with a system international in its operations, and, therefore, affecting men by the millions, it is necessary to take the largest views and to consider the effect not alone on individual thought and character, but also on the thinking habits of the race. Dr. Lydston condemns capital punishment as being the parent of lynching and points out that the original conception of social revenge is kept constantly alive by what he calls this "legal barbarity", adding that "it is one of the chief factors that keep the tiger in humanity's breast from being effectually lulled to sleep by social progress." And it is here that the student of history will find the most overwhelming condemnation of capital punishment, inasmuch as the state by resorting to the extremest form of violence teaches her uneducated and thoughtless millions that the solution of social questions is to be found not in the use of intelligence, but in falling back on force. Who can doubt that the Reign of Terror, which marred and largely nullified the good the French revolution had accomplished, sprang directly from the lessons taught the masses by an autocracy that ruled solely by the sword? Who can doubt that the blood with which the soil of Russia has been wet these many years has the same origin, and who does not know that immense changes are inevitable in this country, and that the one serious danger is that they will be accompanied by bloodshed? In short, no more pernicious teaching is conceivable than that which bids the masses look not to the use of their intelligence but to the exercise of force for the solution of their troubles, for so long as they place their reliance on the baser weapon of brutality there

will be no search for that actual knowledge which alone can set men free. And when we condemn the wild utterances of the individual apostle of violence we should remember that they are but dust in the balance as compared with the all-pervasive example set to the people by their state.

The abolition of capital punishment is urged, therefore, for reasons far weightier than concern for the fate of the individual victim, since, when we consider the conditions that prevail in many of our prisons, it may well be doubted whether death is not often the preferable lot. It is urged because civilization depends on a high appreciation of the value of individual life, and because the death penalty must be done away with if the public is to be educated into relying on intelligence instead of physical force. The more this argument is pondered the more clearly will its strength be seen.

When we pass to a consideration of deterrence — the gospel of fear — we shall show that capital punishment can put up from that standpoint only the lamest of defenses, since it conspicuously fails to attain its aim; but a word may be said here in refutation of the biblical argument to which many of the clergy and their followers apparently are still attached. In their fidelity to the Mosaic law they lose sight of the fact that Christ himself set it aside in the most specific manner conceivable, as, for instance, when he rescued from the hands of her would-be executioners the woman taken in adultery. Moreover, if modern society is to be governed by the Mosaic code, the death penalty must be inflicted for many crimes besides murder.



A special report was made to congress in 1896 on capital punishment, and the committee gave a list of 418 works it had consulted on the subject. It stated that 391 of these favored the abolition of the death penalty as against only twenty-seven that stood for its retention. It is not a little remarkable that twelve of these twenty-seven had been written by ministers of the gospel or had appeared in clerical magazines. And although one could without difficulty produce clippings from many papers that, under the pressure of some local excitement, have called for blood, it is not a little disheartening to find such an organ as the *Presbyterian Standard* (Charlotte, N. C.,) rejoicing at the restoration of the guillotine in France, and declaring that "apart from the gospel nothing would work more for the salvation of the country than a goodly number of well-conducted, well-considered and well-timed hangings."

This attitude of a certain portion of the clergy is brought into more conspicuous notice by a recent letter from Tolstoy, in which he severely criticises A. Stolypine, brother of the Russian prime minister, for defending capital punishment on the ground that it is sanctioned by the New Testament. The great Russian writer says: "Stolypine's article is in itself absurd and insignificant. Nevertheless it represents a very definite mockery of all which was, is and will be sacred to those who understand the true significance of Christ's teachings. This article, published in a paper which has hundreds of thousands of readers, says that Christ not only did not forbid murder, not only recognized the need for capital punishment, but even upbraided the people for abolishing it. This,

mind you, is said of Christ, who is the manifestation of God's love, of that God who is love himself."

Russia formally abolished capital punishment as long ago as 1753, save in connection with political crimes, but this latter has proved the most elastic of terms, the enormous number of executions that has taken place there within recent years being one of the scandals of the age.

According to the congressional report referred to above, Holland, Portugal and Italy are well satisfied that they abolished the death penalty, and it is stated that in Norway, since 1874, there has been a growing disposition to substitute imprisonment as the punishment for murder. Fifteen Swiss cantons are reported as having abolished capital punishment, while seven retain it.

France, on the other hand, as noted in a previous paragraph, recently set up the guillotine once more and reports say that crowds flocked eagerly to witness it in operation. That there will be a corresponding demoralization is inevitable, but the most civilized countries have their reactionary spells.

In the United States, Michigan, Rhode Island, Wisconsin, Kansas and Maine have got along without capital punishment, the four first named for more than two generations, and the last since 1887, at which date it finally decided against the death penalty, after having reverted to it for a term of four years. When treating deterrence we shall show that in these states crimes of violence are comparatively few, and that they have been singularly free from lynchings. The contrast presented by the figures from the southern states, in whose convict camps the murder of prisoners



by guards has been a far too frequent feature, cannot fail to impress the thoughtful reader.

In the District of Columbia a bill for the abolition of the death penalty was introduced by Representative Scott of Kansas, March 28, 1908, and it now seems probable that Illinois will do away with executions at an early date, a bill to that effect having passed the lower branch of the general assembly in June, 1909, by a vote of 81 to 42. The measure was defeated in the senate, but those who have been working for the change express themselves as confident of success within the next two years. Throughout the debate much emphasis was laid on the celebrated and recent Billik case, in which the prisoner was saved at the last moment by the confession of the main witness for the prosecution, who acknowledged that he had perjured himself. It is needless to say that similar mistakes have been discovered repeatedly only when it was too late to rectify them, but this is such a common count in the indictment against capital punishment that we think it useless to elaborate the point. It was the discovery that an innocent man had been hanged which caused Rhode Island to take action in 1852, and Maine finally did away with the death penalty when it was proved that Stain and Cromwell were guiltless of the crime for which they had been sentenced to the gallows.

In Iowa a convicted murderer is sent to the gallows only when the jury so recommends, and for more than twelve years no execution has taken place. In New Hampshire no one has been executed since 1893. In Massachusetts the feeling against capital punishment is reported as strong, and a vigorous fight for its abolition is being waged.

In ten of our states the jury has the right to fix the penalty for murder at imprisonment instead of death, and Pennsylvania proposed last spring to adopt this plan, a bill to that effect passing both branches of the legislature. The governor, however, thought fit to veto the measure, avowing it as his individual opinion that the gallows was a necessary deterrent. On the other hand one of the stock arguments against capital punishment always has been that it leads to the release of many who are actually guilty, juries being properly loth to sign away a human life where there is the remotest possibility of doubt. This was notoriously one of the chief reasons that induced England to modify her code, hard-headed business men, such as the London bankers, petitioning parliament to do away with the death penalty since it was impossible to induce juries to convict. On this head, however, more recent experiences in the United States seem conclusive, as will be seen from the figures in the following paragraphs.

In New York state the annual average of homicides is given as 1500; from 1889 to 1905 the annual executions averaged 5.5. In Illinois from 1890 to 1899 homicides averaged 315 a year; executions 3. In Chicago during the twenty-nine years ending December 1, 1906, there were 2113 known cases of killing, and 38 executions. In Connecticut the decade of 1897 to 1906 showed an annual average of 80 homicides and one execution. The figures in Massachusetts from 1901 to 1907 show 104 charged with murder and only six convictions. In Ohio during eight years homicides averaged 300 a year and executions only 2.3. In Idaho recent investigation of a period of three years

shows that not one of the twenty-one indicted for murder during that time was convicted. Kansas had gone almost twenty-five years without an execution. In short, if the records of these great states prove anything it is that, under ordinary circumstances, juries will not convict when they know death will be the result.

Take on the other hand the experiences of those states that have done away with capital punishment. Wisconsin shows a conviction percentage of 40.5, and in Maine the percentage of convictions rose from 15.4 to 64.5 after the abolition of the death penalty. Rhode Island's percentage of convictions is 65, and that of Michigan 28.2. Comparison of these figures with those given in the preceding paragraph renders comment superfluous. For additional particulars the student is referred to "The Penalty of Death", by Andrew Palm, Maynard Shipley's exhaustive article, entitled, "Does Capital Punishment Prevent Convictions?" in the *American Law Review* for May-June, 1909, and the *American Review of Reviews* for August, 1909. It will be found that the states that have abolished capital punishment have been influenced in favor of the change mainly by the great difficulty of securing convictions in murder trials, and it may be of interest to note that in an address on the administration of criminal law, delivered in June, 1905, before the Yale Law School, President Taft himself called attention to the small proportion of murderers punished.

Moreover, it is universally admitted that the enormous length of modern murder trials, the obstructive tactics and incessant delays for which they are notorious, and the vast expense to which they put the

public, are due to our retention of capital punishment. To which may be added the fact that men of a sympathetic and intelligent type habitually shrink from serving as jurymen in cases where they may be called on to vote away a man's life. Thus jury duty falls more and more into the hands of an inferior class, and the entire administration of justice suffers.

It may be added that the case of Colorado is peculiar since she abolished capital punishment in 1897, and partially restored it in 1901. In a report made in 1900 to the United States prison commissioner by C. L. Stonaker, secretary of the State Board of Charities and Corrections, he said: "Capital punishment has been abolished in the state without any apparent increase in the number of murders committed, but with a better showing for speedy trials and convictions." In the ten-year period from 1889 to 1897 there have been about 2500 homicides in the state and only 12 executions.

If no other evidence on this head were obtainable the figures compiled by the *Chicago Tribune* for the period of twenty-three years from 1881 to 1903 would appear in themselves to be conclusive. The murders and homicides during that period numbered 129,464, an average, excluding fractions, of 5628 a year. The executions, on the other hand, numbered only 2611, an average of 113 a year. It is to be considered, moreover, that while the compiler would get news of every execution, as being a matter of notoriety and public record, many of the murders and homicides committed in remote parts of the country necessarily would escape his attention.

While the north and certain of the western states have been taking lessons from experience, the south still clings religiously to old ideas. Thus the congressional report of 1896, previously cited, shows that Georgia had at that time ten crimes punishable with death, while Louisiana and Maryland each had seven. In Alabama also the jury could impose the death penalty for any one of seven different crimes. In a special appendix to the report Gen. N. M. Curtis, the New York representative, took occasion to say: "A comparison of the criminal laws of foreign countries with those of the United States shows that we undoubtedly have the bloodiest code in the world, and it is confidently stated that we have also the greatest number of homicidal crimes in proportion to population." The bloodiest code; the greatest proportion of homicides!

We have reserved to the last the economic argument advanced by those who favor the retention of capital punishment, viz.: That the community should not be asked to support for the remainder of their natural lives those guilty of heinous crime, many of whom are impervious to reforming influences. As a matter of fact it is a commonplace among those familiar with prison life that "Murderers' Row" often contains the most decent men in the establishment, and it is obvious that a man who, with an otherwise blameless record, has taken life in a gust of sudden passion offers far more promising material than the habitual degenerate whose career has been one continuous series of petty crimes. But apart from this patent consideration the argument begs the question, for there is no intrinsic reason why such prisoners should not be kept at labor that will more than defray the scanty cost of

their maintenance. In a future chapter we shall lay it down as a general principle that all prisoners should be self-supporting, and that enforced idleness or unremunerative toil imposes an injustice alike on the convict and on society.

We have no intention of intruding our political prejudices on our readers, but a passage from "Life in Sing Sing", by No. 1500, founder and for many years editor of the well-known prison paper, the *Star of Hope*, puts in a nut-shell one of the main reasons why capital punishment is still retained on our statute books. The author is speaking of Mrs. Place, who was electrocuted in Sing Sing and continued to the end, as he declares, "brave and steady even to a degree that few men have been able to achieve." He says: "I saw her nearly every day, sitting at her grated door, leading the conversation on all sorts of subjects. She was more vivacious by far than the matrons of forbidding aspect and reserved manner who sat watching her outside of her bars. There was little of the graceful quality of femininity in the appearance of Mrs. Place, but she had all the womanly alertness and interest over small matters and the flattering attention to others' trifling complaints. The quick sympathies that sprang to her lips without effort enlisted the liking of those with whom she came in contact. The influence thus exerted soon extended to her keepers, who, as the day of her execution drew near, frequently broke forth weeping and mourning her fate. At such times this superior murderess would comfort them with her cheerfulness of manner, although from almost the first reports of the attitude of Governor Roosevelt on her application for a stay



or a commutation in the terms of her sentence, she continued to say: 'That soldier-man likes killing things and he is going to kill me'."

Perhaps she did our former president an injustice, but she voiced truly the motive that influences many of those who still uphold capital punishment. They like to kill. It is the barbaric instinct for revenge that has not yet worked out of the blood.

"And as one sees most fearful things  
In the crystal of a dream,  
We saw the greasy hempen rope  
Hooked to the blackened beam,  
And heard the prayer the hangman's snare  
Strangled into a scream."

*(Ballad of Reading Gaol.)*



## CHAPTER III.

### DETERRENCE—WORKED TO THE LIMIT

The race life advances not by fits and starts but by gradual unfolding. We do not jump, but grow, each new development being the effect of some preceding evolution which was its cause. Gradually the narrow, savage ideal of punishment solely for revenge takes a larger and more generous form. No longer is the injured individual, his family or his clan the only one considered. The public puts in a claim and the influence crime exercises on others is introduced as a factor. Legislatures and executives talk more and more of preserving the public safety, and the atrocity of killings and torturings is defended in the name of the public weal. This is the stage that, as a nation, we have actually reached. Although in reality we are moved by the savage instinct when we gloat over the accounts of executions furnished by an obliging press, participate in lynchings and give surprising exhibitions of speed when we join in a man hunt, we assiduously conceal our true motives, asserting loudly that we are racked by anxiety for law and order. It is a pleasing hypocrisy; the homage that savagery pays to the kindlier philosophy of barbarism.

Under the head of capital punishment we have touched on the historical failure of deterrence, citing the classical illustrations afforded by English history. We have shown, for example, that her cruel Vagabondage acts proved utterly ineffective, and that within a century she wiped from her statute books 222 capital

offenses. From sentiment? Surely not, for the English have been the most practical of nations, having succeeded in acquiring and lording it over the choicest portions of this earth's surface. England threw her whole machinery of hangings, torturings and corporal punishment on the scrap-iron heap simply because she had a genius for being practical; she could face a fact when it had been proved as such. She found that the allegedly deterrent penalties did not deter. Even her bankers discovered that forgery flourished rankly within the very shadow of the gallows, and petitioned parliament for more lenient and certain punishment.

Robert G. Ingersoll has said somewhere that when he saw the thumbscrews and other instruments of torture, by which in ruder times the orthodox sought to win back those who had developed a different opinion, he felt that, had he been one of the victims, he would have cried: "I promise anything, but for God's sake take off those thumbscrews." It is an excellent illustration of the weakness of deterrence. A never ceasing flood of discharged convicts pours back into our penitentiaries, not because they have found life there a paradise, but because the thumbscrew of present want exercises a pressure far more potent than does the fear of future, but uncertain, punishment, however severe. Here is the true answer to the question why deterrence, pushed to the very limits of human endurance, does not deter. It is not a theory, but an actual situation that confronts us, and we should face it.

From time to time, though not so often as formerly, editors take a flight into the realms of fancy and unbosom themselves of the judgment that our jails,

reformatories and penitentiaries are charitable institutions in which the criminal enjoys his ease at public cost. We ourselves are not concerned with fancies in this matter; we deal with facts. Inasmuch as the facts at our disposition would fill volumes we select carefully, advancing only those of recent date and indisputable authenticity. Their bare recital will show the extent to which we have put into operation the philosophy of deterrence.

Here is the great state of Illinois, a commanding figure that claims to stand in the front rank of civilization and culture. Its principal city, Chicago, is the second largest in the country; it is policed, as the public generally understands, in the most modern and up-to-date fashion. Crime and the treatment of criminals have been the special studies of many of its brightest minds. It prides itself on the humanitarian conquests achieved by such a judge as McKenzie Cleland in the Municipal Court of Chicago. Prison reformers have been exceptionally active, for Chicago is the headquarters of the Howard Central Association and the National Probation League, while a branch of the Prison Reform League is located there. Quite recently it has been the birthplace of the American Institute of Criminal Law and Criminology. As stated in the last chapter it has taken a long step toward the abolition of capital punishment, and last year its House of Representatives found it necessary to institute an official inquiry into the conduct of its penal and charitable institutions. From a series of unfavorable reports rendered by the committee of investigation we select that on the State Reformatory at Pontiac, because a reformatory is essentially a place

in which the ostensible purpose is not to punish but to reform.

A large portion of the report is devoted to a consideration of the case of William Hamlin, aged 19, who died in the hospital as the result of injuries inflicted. It is stated thus by Representative Hill, chairman of the committee: "That boy was kept in the 'solitary'. He was trussed up there. I wish I had the exhibits here. They will be here tomorrow. He was manacled up in this manner (illustrating) to the bars for thirty-eight consecutive hours, with two hours rest between; manacled up in this manner for that length of time. Stop and think one moment, if you please, of standing in that position for that length of time, or for one hour. Finally he was taken out of there, as the evidence shows and the doctors swear, with his back broken in two places, here, at the neck, and at the lower part of the spine, and, gentlemen, the exhibits are there. The pieces of spine are there under the care of the doctors today, ready for you to see if you want to see them; and yet, I want to tell you, the hardest thing in the world is to get evidence in these cases.'"

Incidentally it may be mentioned that Hamlin was given the "water cure" also; an excruciating torture of which we shall treat presently. We quote from the committee's findings:

"Too much attention cannot be given to the punishment to which Hamlin was subjected. Hamlin was cuffed up on the morning of the 24th of December, his hands being hung as high above his head as he could reach, in which position he was kept the entire day of the 24th, and all night of the 24th, all day of the

25th, until 2 o'clock of said day, when he was let down for two hours. At the expiration of two hours he was again cuffed up, or put in irons, as it is sometimes termed, handcuffs being put around his wrists and the chain to which the handcuffs were attached put over the crossbar over the door, about six feet and one-half from the floor, holding his hands at full arm length above his head, and kept in that position from that time until 2 o'clock of the next day, when he was again given two hours' rest. At the end of the two hours he was again cuffed up similarly as before and kept in that position until he was injured. During the time of confinement in the solitary the prisoner is allowed one piece of bread a day, but is allowed all the water he cares to drink. The solitary cells are rude, primitive structures, relics of medieval torture; each cell is about seven and one-half feet high, between four and five feet wide, about seven and a half feet long; the floor, the ceiling, the side walls and one end wall are of cement. In the cement end of the wall there is a window about two feet square. The other end wall consists of bars, iron bars, in which iron bars is a door.

"From the evidence taken we add the boy's dying statement that they had hung him up for the best part of three days and nights by the hands until he could endure it no longer, of which fact he apprised the guard, telling him that he could not stand it and begged to be let down for a while; that when he heard the guard coming in to chain him up again he broke and ran and climbed on the bars, and hung as long as he could; that his arms were numb and he dropped when he could hold on to the bars no longer; that

after he dropped the night captain came in and kicked and beat him and shook him and hung him up still higher, at which time he fainted, and what they did afterwards he did not know; that when he came to he was lying on the floor all wet, and that they were throwing water on him out of buckets and tin cups; that he didn't know anything else until he found himself in the hospital."

This particular reformatory is supposed to be for the redemption of wayward youths under twenty-one years of age, and the lad in question had made a splendid record, having to his credit every possible mark. Suddenly he found himself in the "solitary" for having used his tin cup as a mirror and watched a guard on the gallery. Thereupon he endeavored to escape.

The view of their duty taken by the reformatory guards may be seen from the following extract: "After an intermission of two hours he (Hamlin) was again cuffed up, and for sixteen hours longer he was shackled to the bars of his cell. Another intermission followed and for a third time he was hung up. 'He wouldn't give in,' said Capt. A. J. Renoe on the witness stand, 'and it is our practice to break a prisoner in the solitary—to break his will.' The testimony shows that the boy pleaded piteously to be let down. His wrists and ankles were swollen and he suffered excruciating pain. But he would not 'give in', and though he fainted as he hung in his chains his cruel guards let him hang."

Can any one read such evidence and believe that the Illinois State Reformatory at Pontiac is a palace of ease? Does not every one recognize immediately that



the effort is, true to the policy of deterrence, to make the institution as good an example of hell as human ingenuity will permit? And, above all, it will be noted that the avowed practice of the guards is to "break the will"; to degrade man, the most highly evolved of all the forms of life, into a jellyfish.

Yet it is painfully evident that this reformatory is much on a par with other penal and charitable institutions in Illinois, as witness the following from the report of the same committee on the Lincoln Asylum for the Feeble Minded — a class that appeals to every sentiment of chivalry, and an institution named after one of the kindest men that ever breathed: "The failure to notify the coroner as to violent deaths occurring in the institution; the reprimanding of Dr. Hoag for diagnosing that Vergene Jessup had been gnawed by rats, and the history of the Frank Giroux, Walter Kaak, Minnie Steritz and other cases, show a lamentable lack of efficiency in management. It seems evident from the testimony that the food supply furnished the inmates, which will be more fully treated hereafter in this report, was seriously lacking in quality and oftentimes in quantity. The prevalent use of salt pork, the want of vegetables, the failure to furnish these children — most of whom are very anemic and many of them tubercular — with vegetables, milk or eggs, reflects seriously on the present management of this institution."

Or this from the report of the same committee on the Illinois Asylum for Insane Criminals: "Some of the cells at this institution come nearer to a modern conception of the dungeons in medieval times than anything the committee came in contact with, unless



it may be the solitaries at the various penal and reformatory institutions, and in a matter of choice it is the opinion of the committee that even these would be selected in preference to the aforesaid cells. The only redeeming feature of it is that the committee was informed they have forced ventilation. Strange to say, these are the latest cells constructed."

Apparently the belief in the efficacy of deterrence is such that it is thought that by making things sufficiently unpleasant men and women may be frightened into remaining sane.

Let us take another state, one justly proud of much of the progress it has made — Ohio, the "mother of statesmen", from which our ruling president comes. We call Mr. Charles Edward Russell as a witness and we say he is a most credible one, for as an investigator he has an established reputation which he dare not lose by being false to facts. In the first of a series of articles entitled "Beating Men to Make Them Good", published in *Hampton's Magazine*, September, 1909, he thus describes conditions in the state penitentiary at Columbus: "The first buildings are cell houses. Here is one built in 1834. It is a frightful place, very dark, damp and to the senses pungently suggestive of long and odorous occupation. The ventilation is so bad that even when the tenants are gone forth the air is heavy and foul; what it must be when the 500 cells are occupied with breathing and perspiring men is a suggestion to jostle complacency. There is first the outer wall with barred windows, few and narrow; then a space of ten or twelve feet, then the cells in five tiers. At noon barely so much

light enters the corridor that one may see one's way about. No light enters the cells.

"Into these black caves, where the chill of old stone walls strikes one like a palpable thing, and where the heavy air is stirless always, not one ray of natural light has penetrated for seventy-five years. And 500 men sleep in these caverns. What think you of that, my medical friend? Does not that spell disease and death? The other cells are somewhat better — not much. None of them is fit for human beings to inhabit; and here altogether are about 1700 of such inhabitants, under the worst possible conditions; for many of the small black caves house two men each."

Mr. Russell visits the filthy dining room, where "more than one convict makes an attempt on the mess before him, and, desisting after a moment, sits and stares hopelessly at his plate. If one wishes more bread he raises a dirty finger and a guard takes a piece in his hand and tosses it upon the dirty table. If one wishes more water he raises his cup. Not a soul breathes a word. The guards are all there, watching, listening."

He then passes to the chapel, "where every Sunday the chaplain preaches to these our victims. What about, in the name of wonder? Forgiveness, very likely; or peace on earth, good will to men. Nothing would seem incongruous in a place so hideous."

Subsequently he visits the "cellar," described as the "place of judgment and of torture. The deputy warden sat as the court; on the report of the guard swift sentence was pronounced. Usually the offender was condemned to be paddled, sometimes to the bull

rings, sometimes to the water cure, and in the cases of old offenders to all three—one after another.”

This article is generously garnished with affidavits, and we quote from that of William Labarge, to explain the paddle torture, which prison authorities are in the habit of treating lightly. He says: “Three weeks after I entered the Ohio penitentiary there was a couple of guards arguing about politics and one of the convicts (at the dinner hour) stuck his finger up for some bread. The guards did not seem to pay much attention to him so I passed him some bread. I was reported in the morning, sent to the cellar, and the deputy gave me about twelve or fourteen licks with a wet paddle and sanded, and every time he hit me it seemed to take the flesh right off, and it bled so it went into my shoetops. I had to use cotton for two or three weeks in order that it would not stick to my clothing, and I could hardly sit down to eat, it pained me so.” And again: “While I was working in the dining room I saw convicts coming in from being whipped in the morning for refusing to go to work on account of not having enough to eat, so that they could hardly sit down. I have seen convicts evenings in the hall who would show you where they had been licked, that they were just cut, and the flesh wrinkled, and you could see the dry blood where it ran down their legs—if I have seen one that was licked like that I have seen forty or fifty that were in awful condition.”

The explanation of the water cure is accompanied by a photograph showing this hideous form of punishment being administered by three officials, and the process is described thus: “Having been stripped,

the delinquent is manacled in the great bath tub. At the height of his neck in the sides of the tub are grooves and in these play great wooden clamps, carved to fit the human body. These are screwed together so as to grip in a vise the man's chest and arms. In front of him is a faucet and a bit of hose, throwing a smart stream of water. First it is necessary to get the man's mouth open by making him cry out (which is usually done by frightening him), whereupon the water streams down his throat and strangles him. By those who have suffered this treatment the sensations are said to be indescribably horrible. In spite of his reason the victim feels that with the most excruciating pains he is being tortured to death. I understand that in nine cases in ten the man was carried away insensible and sometimes spent days in the hospital. If he died I don't know how the facts would be known. 'Tis but a man gone — and he a convict."

The penitentiary now under review is that which Brand Whitlock made the scene of his "Turn of the Balance", and those who have read that admirable work will not easily forget the description of Archie's being subjected to the water cure, followed immediately by the "bull rings", which means, in Mr. Russell's words, that "the prisoner is strung up by the wrists in a dark cell and thus left hanging, like a carcass of beef". Brand Whitlock's description of the incident is as follows: "The next day, and the next, and the next — for seven days — Archie hung in the bull rings. In the middle of the eighth day, after his head had been rolling and lolling about on his shoulders between his cold, swollen, naked arms,

he suddenly became frantic, put forth a mighty effort, lifted himself, and began to bite his hands and his wrists, gnashing his teeth on the steel handcuffs, yammering like a maniac."

Mr. Russell cites one of the foremost lawyers in Ohio, who declares that he has had a long and intimate acquaintance with the workings of this particular prison, and "from what I have seen and heard, I may say that I know the conditions that exist and I feel perfectly safe in making the assertion that every statement concerning prison life made in Brand Whitlock's book, 'The Turn of the Balance', is realistic, characteristic, and true of the Ohio penitentiary."

In another affidavit given by Mr. Russell the affiant remarks: "I heard they did away with the humming-bird just a little before I came there. My! that was bad!" This particular piece of fiendishness is described thus: "Having been stripped the delinquent was fastened on his back in a shallow metal tank filled with water and connected with one electrode from a dynamo; the other electrode was a wet sponge. Gloved in rubber the operator took the wet sponge and passed it slowly up and down the prisoner's bare limbs. As it went his muscles corded into knots and he shrieked aloud until he fainted." To such base uses do great scientific discoveries come! Mr. Russell gives his reasons for believing that this species of torture has been in use within the last ten years.

It is said that Ohio has set herself seriously to work to revolutionize the conditions that have prevailed in her penitentiary, and has placed a man of high repute and humane tendencies in charge. Assuredly "'tis a consummation devoutly to be wished."

That the Ohio penitentiary has had no monopoly of the "humming bird" torture is evident, for the 1908 report of the committee appointed to investigate the state institutions of Illinois has this to say of the Chester penitentiary: "The electric battery, or 'humming bird', punishment is not a figment of the imagination, but was a potent factor in subduing prisoners at one time. The committee realizes that the handling of convicts is a difficult problem, and one that should make one hesitate to hastily criticise the management. It, however, feels that the use of an electric battery for this purpose is too dangerous and is too liable to encourage abuse and cruel treatment to be used, and feels that it should not be tolerated. It is understood that it is no longer used for the purpose of punishment, although the presence of a powerful battery is liable to tempt its use. It is suggested that it be discarded." From the delicate wording of the protest it is conjectured that none of the protestants had ever undergone this particular form of discipline.

Finally consider the following special dispatch to the *Los Angeles Times* from Galveston, Texas, under date of November 6, 1909: "The legislative committee's investigation of the state penal institutions and treatment of convicts on the farms, as well as in the prisons, reveals the fact that more than fifty convicts have been killed by cruelties and whippings within a period of three years or less.

"The record may be much larger, and presumably is, but the board of inquiry finds it almost impossible to wring the evidence from the convicts whom they examine.





### THE "HUMMING BIRD."

Chained in a metal tank the victim is tortured with electricity until his muscles cord and he faints from pain. See page 47.



"The majority of the convicts who could give positive evidence of specific cases are afraid to tell, because they fear they will incur hatred of the guards at the penitentiaries, and on the convict farms and plantations. As illustrating this point, a long-term convict, with an excellent prison record, before the committee today admitted he witnessed at least three whippings, the victims of which lived but a few days after the punishment, but he begged piteously not to be forced to give the evidence.

" 'I have a long time to serve here, and if I testify I must lead a dog's life, and I know I shall be given the limit.'

"When a guard beats a convict into insensibility the guard's word goes with the superintendent, when the guard merely explains that the convict showed fight or refused to obey orders. The whipping of convicts until their bodies were a mass of bleeding wounds, with leather straps two feet long and three inches wide, numbers more than 400 that the commission has positive evidence of, and the inquiry is not completed."

The latest evidence taken before the legislative committee that is now investigating the treatment of convicts in Texas more than bears out the horrors suggested in the foregoing dispatch. Thus far (November 5, 1909,) the committee has listened to one unvarying tale of indescribably cruel whippings, inflicted usually for the most trifling offenses, and even, as it is stated, for "nothing at all." But the cause most generally assigned is that the convicts were not doing enough work to suit the bosses. What this means may be gathered from the testimony given by a convict who

had been transferred from a farm where the committee had taken testimony recently. The sergeant referred to had been much incensed at the news that convicts had given evidence, and the manner in which he took revenge is described as follows:

“A few days later he put white men and negroes to hoeing, telling the white men they must keep up with the negroes, and the negroes that they must not let the white men catch them. The competition was so fierce that some of the men fell out. Next day the sergeant came out, tied a negro to the horn of his saddle and beat the negro with a quirt. Every time a lick was struck the horse jumped, pulling the negro around. All this time the sergeant cursed the committee. Next day the sergeant offered a prize of \$1 to the convict who would pick the most cotton. One picked 550 pounds, the other 525. The sergeant said he had a good notion to whip the latter, as he had made a bet of 50c upon him and lost. Witness told of further whippings administered by the sergeant.

“The convict described a visit of the inspector to the camp. The inspector said: ‘Boys, how are you?’

“‘Getting along fine,’ they all answered — all save one.

“This one said: ‘Very well to be in the penitentiary.’

“The sergeant threatened to whip this man if he ever said a thing like that again.

“The next day the sergeant came to the field on a lope. The convict says he was drinking. (The testimony at several of the camps has been to the effect that intemperance is largely responsible for

abuses.) The sergeant got a man down and whipped him.

" 'I never saw such licks struck,' said the convict. 'The captain would whip and rest, whip and rest. He would say: 'The committee! The committee' You —— black, educated —— —— —— —— . You were looking for the committee to give you pie. I'll give you pie,' and then he would go on whipping."

"He said the sergeant kept on until he was whacking the men over the head indiscriminately."

Further testimony was to the effect that the whip in common use, and known as "the red heifer", was six feet long or more, that it was soaked in lime water before being applied, and that the officers would notch the end so as to make it "bite", the lash being applied with a jerk that tore out the flesh. One particular officer, referred to as "Sergeant X", was said to have whipped as many as seven or eight convicts at a time, one of whom received ninety-three strokes, whereas the limit specified by the law is thirty-nine. Another convict was said to have received sixty-eight strokes, and this particular case was testified to by numerous witnesses. In the instances of two negroes whipped by "Sergeant X" the skin came off at every stroke after the fifteenth. Both men bled profusely and died shortly afterwards in the Rusk prison hospital.

At the order of the committee a white convict stripped, and the scars on his body showed plainly that a strap had been used. Furthermore the scars were on the upper portion of his body, thus giving the lie to testimony previously rendered by officials to

the effect that the whip was used only on the lower portions.

Sickening details of other whippings, inflicted by "Sergeant Y" and others, abound, supported by corroborative testimony. For example, the committee noticed that one negro had a large scar on his throat and drew from him the admission that he had endeavored to kill himself in order to escape a flogging, which nevertheless was administered three weeks later. Another convict said that he ran the risk of being shot rather than submit to whipping, but in his case also the punishment was carried out. Another convict told the committee that he had been whipped twenty times in four years, getting on one occasion as many as eighty-seven licks; that he had chopped off a finger that he might be sent away from the camp, and that subsequently, when threatened with another whipping, he had cut off two more fingers from the same hand.

Men were forced to continue at work when suffering from serious illness, and gruesome accounts were given of the treatment administered by the convict doctor, who was not a doctor at all.

Testimony is still being taken as we go to press, but, as will be seen, the proceedings thus far add another revolting chapter to the history both of penitentiaries and convict camps, although the situation is relieved somewhat by evidence to the effect that conditions at the Rusk penitentiary have improved within the last few months.

Throughout the investigation testimony was given most reluctantly by both white and negro convicts, but by the latter more especially, which again confirms

our constant contention that convicts are far more likely to conceal than to exaggerate the ill usage to which they have been subjected.

In our next chapter the scene will be shifted to the Pacific coast. Meanwhile it must be understood that we are not in the least interested in the piling up of horrors. We are simply establishing a scientific fact of the very first importance, viz., that the philosophy of deterrence has been worked to its utmost limit in this country. Hereafter we shall expect to prove that it has failed and failed conspicuously.

## CHAPTER IV.

### SAN QUENTIN AS I KNEW IT

The following detailed and most graphic account of life in San Quentin is furnished by Col. Griffith J. Griffith, secretary and treasurer of the Prison Reform League.

After one of the bitterest and most sensational criminal trials in the history of Los Angeles, Col. Griffith was sentenced to two years in San Quentin, having been found guilty of assault with a deadly weapon, despite his insistence that the affair was accidental.

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As we started for San Quentin I tried desperately to lose myself in abstract thought. It was impossible. During the thirteen months passed in the Los Angeles county jail, where I had awaited the trial of a \$20,000 civil suit, hope never left me. The fight for freedom, the expectation that the verdict would be reversed, had buoyed me up. Now all that was over.

I shut my eyes, but could not shut out the knowledge that we were passing through the long familiar streets, or that the crowds by which we hurried contained many who knew me well.

With the boarding of the train came inexpressible relief, and to my great joy the sheriff decided that I need not be shackled. I am blessed with a strong frame, an excellent constitution and good nerves, which my life as a mining expert and live stock raiser had kept in good trim. So, as the cars pounded along through the desert, I composed myself and thought.

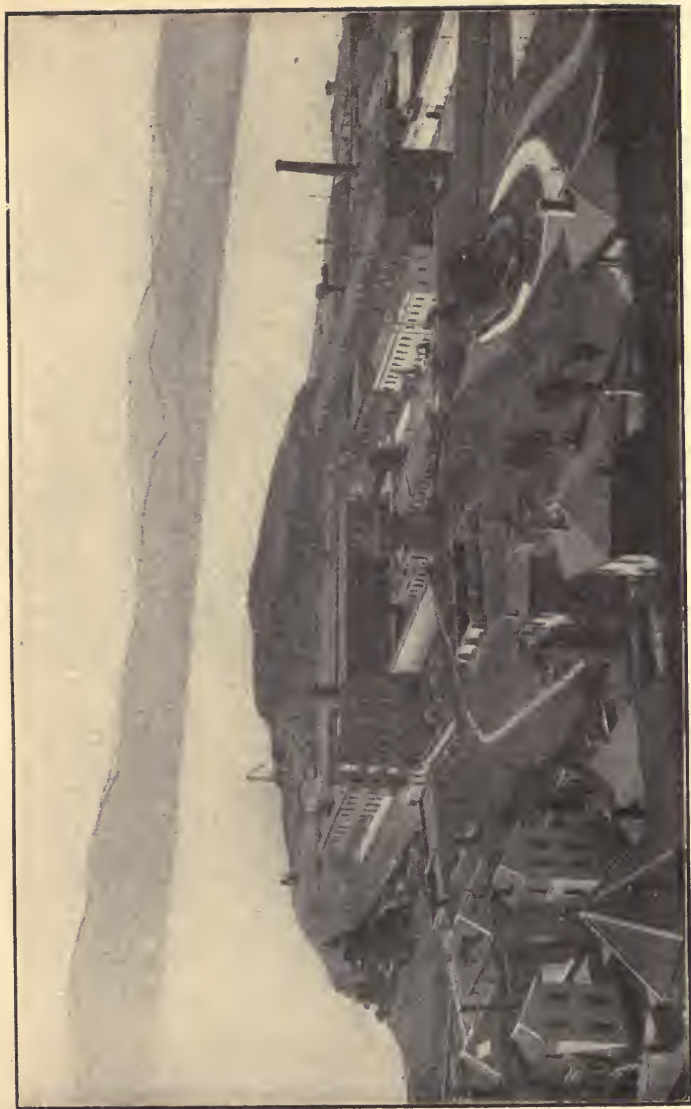
Hour after hour I thought, steadily and hard; reviewing the past, sizing up the future.

I had no regrets; I never have. The past had its merits and defects. So have all pasts. The only question worth considering was whether the failures could be turned to gains. The future was the thing, and again I grew hopeful. Two years, less the credits I certainly should earn, would quickly pass away. I should come out of prison a comparatively young man, with my health, as I devoutly hoped, intact and the world once more before me. My health. That was the main point. I must take care of that. Whatever happened I must keep my self-control. If possible I must make hosts of friends, and I must not fall. I thought it all out in the long vigil of a sleepless night.

How life would shape itself in detail during the next two years I could not tell, but with health, self-control and the exercise of intelligence I should be certain to win out. Without forming any distinct resolutions I mapped out a general line of conduct which one might reasonably hope to follow. I tried my best to discard "illusions, delusions and hallucinations"—terms repeatedly used during my trial. I was bent on self-preservation, but I decided that, while adapting myself to circumstances, I would not stoop, if it could possibly be avoided. I must maintain my personality at almost any cost.

It was early morning as we neared San Quentin and much of my customary cheerfulness had returned. The gray walls suddenly jumped into sight, and almost before I knew it the steel-barred gates had swung open, had closed again and liberty had been left behind.





STATE PENITENTIARY AT SAN QUENTIN, CALIFORNIA.

I took a firm grip on myself and held it throughout the humiliating, the intensely humiliating formalities that followed — the bath, the shave, the Bertillon examination, the photographing, the assignment of the number by which thenceforth one would be known. Finally I found myself dressed in convict garb, and, with my bedding under my arm, bound for my cell. The door clanged to, and at last I was alone.

I may mention at this point that I had been told in the Los Angeles sheriff's office that certain articles of comfort for wear would be allowed to model prisoners, so, with the consent of the sheriff, I took with me some good underclothes, several pairs of socks, handkerchiefs and a large feather-pillow. Turnkey Murphy, on my arrival at San Quentin, commanded me to turn them all over to him, together with every stitch of clothes on my body. I never saw any of the articles again. He also refused to admit some excellent new books I had brought with me until I had given my promise that, after reading, I would donate them to the Roman Catholic library, to be added to their collection of two thousand volumes. This was the first I knew of a sectarian library being maintained by the state.

My rough undergarments irritated me horribly; the fetid prison air, heavy with the taint of humanity, weighed on my nostrils; the cell, of steel from floor to ceiling, chilled me through and through. But I was at least alone. My thoughts became busy with the future, and presently physical fatigue asserted itself. I threw myself on my bunk and fell into the profoundest sleep. Seldom have I passed a better night, as I woke only once, having been disturbed by the guard on his hourly round.

With the sound of the gong at six o'clock next morning my life as a member of the convict world began. The door of my cell was thrown open and I found myself one of the enormous bucket line, engaged for some twenty minutes in cleaning corridors and cells. Each man brought out his pail containing the slops of the preceding twenty-four hours and emptied it into a general receptacle. As there were hundreds of men to each receptacle, and as the latter became clogged from time to time, the process was disgusting. In cold and rainy weather it is attended by much discomfort.

At this time of day conversation is usually allowed, but, although I was the subject of many curious glances and some remarks, I held aloof, fell silently into the breakfast line and shuffled to the dining hall, guards flanking the line throughout its march. My place was pointed out to me in silence, and in silence I devoured a scanty and hasty meal. The line rose at a signal and passed out to the jute-mill, situate in the lowest of the three yards. There I was taught, in a few hours, "spooling," a branch of the grain sack making business. I found myself one of some eight hundred prisoners, under the direct custody of a dozen guards, in a building more than 1,000 feet long. The roof was of glass, but grimy with the fluffy soot of the material handled, so that the light was far from good. Through occasional openings, however, one could see the armed guards passing to and fro on the walls that overlook the building, ready to fire at the first disturbance. Above all stood the keepers of the Gatling guns in the five towers that command the entire situation.

I remained more than a year in this mill and put in several months on the machine to which I had been first detailed. After that I was placed in charge of one that turned out spools of three different kinds. As these had to be delivered in various parts of the building I was compelled to move about a good deal and thus made many new acquaintances, much to my satisfaction.

At the very start I decided that even in such monotonous work as that allotted me I might find pleasure in acquiring dexterity in the tying of strings and quick change of spools. So I made a special study of it and began to note with interest that my fingers daily were becoming more deft. My studies unfortunately were not allowed to proceed in peace.

As I stood at my silent task, spools, each of which weighed several ounces, would come flying over from neighboring machines. Most of them missed, but now and then one hit me on the head. In fact it soon became evident that I was the mark of a persistent bombardment, and the reason was plain enough. Prison gossip had concluded that I belonged to the upper world; that I had had more than my share of the good things of life, and that in my present punishment fate was getting justly even. Class consciousness intended that I should be made to feel this bitter truth.

For some time I paid no attention to these little courtesies, but one day a shuttle wounded me somewhat severely, drawing blood which trickled down my face and neck. During a temporary recess I seated myself on a near-by log and tried to stop the bleeding. A group of men separated itself from the throng

and came toward me. "Well, quite a fall for you, eh?" said the one who evidently was the leader, and I understood the sneer in his voice. "Can you stand it?" he continued. It was clear to me that it was now or never.

"Oh, I can stand it well enough," I replied, rising slowly from the log. "I'm as tough as a pine-knot, you know. How tough are you?" And I threw myself into a fighting attitude. Recollections of the time when I was accounted handy with the gloves came trooping through my memory, and it would have given me profound satisfaction to have thrashed my opponent to a finish. But he slunk away hastily and I at once resumed my seat. I immediately bridled the impulse to revenge, and, remembering that love is reflected in love, asked myself what was the loving thing to do.

A guard came hurrying up. "What is all this?" he said. "Have you men been fighting?" I assured him that there had been no fight. He insisted that something was wrong and pointed to the blood on my face, but I explained that I had met with a slight accident while at my work. This did not satisfy him and he hauled me up before the warden. There I was questioned closely, but I stuck to my original story and maintained stoutly that I had no reason to complain of my fellow-workers.

Meanwhile these last were evidently sweating blood. All their experience taught them that a fellow "con" would snap at the chance of denouncing them, thus currying favor with the authorities; and that the denunciation would be followed by the strait-jacket, the solitary cell or other severe form of punishment.

They were astonished still further when the warden, who seemed kindly disposed to me, inquired if I would not like to be taken from the jute-mill and set to work as clerk in the laundry. I refused the offer as politely as possible, and he then proposed that I should be employed as clerk in the drug department — a much coveted position, since it carried with it better food, less work and other privileges. But I refused again and begged that I might be allowed to remain where I was, explaining that I was becoming quite an expert at tying weaver's knots and found pleasure in the work. In reality I wanted to make myself thoroughly acquainted with the life of the jute-mill, and had no fancy for being interrupted so prematurely.

With the same desire for gathering information I took steps to procure removal from my cell, the solitude of which had been so welcome the night of my arrival. I wished to mix with my fellows and take notes, and I was so fortunate as to be placed in room "A", where I was one of forty-eight. The reason for my request being granted so readily, and for the offers previously made, I learned only at a much later date.

This removal had another advantage of which I then knew nothing, for my new quarters were immediately above the dungeons in which torture is inflicted, of which I shall speak hereafter.

Thus I had found at a jump the very opportunities I had sought, and the entire spool episode had constituted a genuine psychological moment. Apparently I had made friends with the authorities; I was located exactly where I most wished to be, and, above all, I had established a standing with my fellow-prisoners. From that moment I began to learn the inner life of



the prison; I became the recipient of confidences and was admitted to the Brotherhood.

Another thing stood me in good stead; I do not use tobacco. Now, tobacco is the coin of the realm in San Quentin, and, although each prisoner receives a weekly ration, most of them could use far more. So I, as the possessor of the much desired commodity, occupied quite a commanding capitalist position.

Experience has convinced me that convicts are more sinned against than sinning, but I was not so foolish as to suppose that I should not find my new companions full of faults. My personal belongings were poor enough, but I had a watch and a pair of reading glasses. Although I tried to keep a sharp lookout both of these disappeared. The former was a cheap affair, but it was erroneously supposed that the works were valuable, and the gang that took it showed ludicrous disappointment when it discovered the worthlessness of the loot. The parts were returned to me and I ignored the matter. My glasses I advertised in the customary way, and a man quickly came forward and declared he would get them back if I would give him two sacks of tobacco. I refused to be bled and recovered the glasses without paying anything.

Otherwise I had no trouble with my room-mates. During my fourteen months in room "A" only one fight took place, and that of a trifling nature. Several of my companions had been found guilty of murder and were in for life, but their conduct was excellent. Several others were quite old men, one having been convicted of assault after he had passed his eightieth year, while another celebrated his seventieth birthday shortly after my arrival. The



rest were in for petty offenses. We had a few who belonged to the San Francisco hoodlum gangs, which are notoriously tough, but they were in a decided minority and the example of the others kept them decent.

Lights go out at 9 o'clock, and in the interval between supper and that hour we were free to talk, read or play checkers, cards being forbidden. I had been anxious to keep in touch with the outside world, and, inasmuch as no convict is allowed to read a paper published in the State of California, I had subscribed for the *Salt Lake Daily Tribune* and a number of leading periodicals. These came to me regularly, being sent direct by the publishers, for literature is not admitted when sent by friends. I quickly found that my companions were hungry for news, and it soon became an established custom for me to read to them some two hours an evening. A more interested audience than that which gathered round me, squatted on four-legged stools, I never expect to command.

For my part I found that the backless stool, after a day passed on my feet before the spooling machine, was most fatiguing, and I noticed that there were one or two who enjoyed the luxury of chairs. I made inquiries of the room tender and he told me that an old soldier in the opposite corridor had a chair he would sell for seven sacks of tobacco. I had accumulated only five, but I opened negotiations, got credit for the other two and that evening reveled in the luxury of a rocker. Early next morning I was summoned to the captain's office.

Immediately the whisper ran around that Griffith was to be "jobbed", and when I reached the inquisitorial room I myself began to think that some-

thing serious was on foot, for the warden, captain of the guard and the captain of the jute-mill were all there in solemn session, surrounded by their special "runners". I said "Good morning" and, receiving no reply, asked: "Is there anything I can do for you, Warden?" I was then told, in the gruffest manner, that I had violated a most important rule in trading my tobacco for a chair. I pleaded ignorance and added that I had read that the director of a certain prison had decided to stop the issuance of tobacco, that the order was rescinded in consequence of public indignation, and that those who did not use tobacco were now allowed credits for employment in other ways. I intimated that this would be a sensible rule for San Quentin to adopt, and after a consultation I was discharged. This incident is given merely to show how arbitrary are many of the rules the prison authorities are continually passing, each of which is a trap for the unwary and an excuse for punishment that is often unmerited and frequently most severe.

April 18, 1906, brought the San Francisco earthquake and fire. Many of the convicts had relatives and friends in the city, some had property, and all were keenly interested in whatever news could be obtained. I appealed to the warden, therefore, to dispense for the time being with the rule that forbade the reading of papers published in the state. The matter was taken under advisement for several days, but the request was refused. The demand for news continued, however, insatiable, and for a long time I was kept busy at nights reading column after column of such information as could be had. The views of scientific men on the causes of the earthquake excited the most lively discussions.

I may add here that I had made a previous appeal which had proved somewhat more successful. The time allowed for meals was obviously insufficient, and one day, when we had unusually bony fish for dinner, the signal to rise was given before any of us was half way through his portion. I had taken careful note of the time and had found that, including the delays incident to entering and leaving the hall, only fourteen minutes had elapsed. I complained and next time we were granted eighteen minutes. The quality of the food served in San Quentin has been most severely criticised from time to time, and, in my judgment, even if the quality were good, it would not constitute a healthy diet for men living in confinement. Breakfast usually consisted of coffee, bread, potatoes and beans, butter being unknown. Dinner was apt to consist of pork and beans, with tough beef steamed and called "steak" as a variety, and fish about once a week. Supper was a repetition of breakfast. Occasionally there was mush, accompanied by an extremely thin syrup dignified with the name of molasses. My teeth and digestion are excellent, but for those who were not so blessed the diet must have been trying; and beans, which, with bread, were the staple, are extremely hard on many men.

In reality the quality of much of the food was execrable. The meat was served largely in a form known as "deep water stew", which was admirably calculated to conceal its tainted condition. The mouldy beans were often too rank for cooking and were hauled in large quantities to the hog ranch, where about four hundred hogs were kept. The potatoes were small, watery and full of worm holes. The coffee was such that it was difficult to tell whether

it professed to be coffee or tea. In the *Scientific American* I had read of a simple test, and this I tried. A roommate who worked in the kitchen brought a small quantity of the ordinary ground coffee, and this we placed in a glass nearly full of cold water. Since coffee is rich in oil it should have floated. Fully two-thirds of the stuff on which we experimented sank to the bottom.

The natural inference from these experiences was that graft must be rife, and the more intelligent and older prisoners with whom I talked were all of that opinion, going so far as to declare that not so much as a match came into the prison without there being a rake-off for some one, and that this condition had prevailed for the last sixty years. They all agreed, however, that it would be impossible to trace it from the books. I have been at some pains to look into this matter since my release, and my investigations have all tended to confirm the statements made by these convicts.

Meanwhile the daily task in the jute-mill continued. The spool incident had put me on good terms with many of my co-workers, but for a time the actions of the captain of the mill gave me much disquiet. One California paper has maintained recently, with a fine but ridiculous show of indignation over charges I have made, that state prison officials are chosen for their fitness and not for private or political reasons. I have stated repeatedly in public that the then warden, J. W. Tompkins, delighted in reminding the prisoners that they were sent there expressly to be punished—a hint his underlings were not slow to take. Randolph, the captain of the yard, said to be partly Indian, was notoriously cruel, but it was uni-

versally admitted that Leahy, the captain of the jute-mill, where the great bulk of prisoners is employed, was the worst of all.

This man had been originally a fish peddler in San Francisco, and subsequently became a member of the detective force there. He showed on all occasions a malicious delight at the sight of sickness and suffering such as I have never seen exhibited by any other man. On me he began to play a peculiar trick. He carried an exceptionally heavy cane, and he would come softly behind me, while I was busy with my work, and strike it suddenly on the concrete floor within an inch or so of my toes. I bore this in silence many days, and also passed unnoticed an occasion when he nearly succeeded in causing me an awkward fall. But all patience has its limits, and one day I turned on him and said: "I am trying so to conduct myself as to merit the good-will of all before I leave. If I do not succeed I shall publicly discuss the reason why." The thinly veiled threat of future exposure had its effect (what effect would it have had if I had been an obscure pauper?), and this particular nuisance ceased; but shortly afterwards, when I was taken suddenly and seriously ill, this man refused to allow me to leave the mill, although my intense suffering was obvious to all.

That I recovered from this attack was due to the skilled services of a room-mate who was a well-known doctor before his conviction for an offense of which I believe him to have been entirely innocent. Today he is once more a free man, doing an enormous practice and beloved by all the county in which he lives. But he had means at his command, and his was not

the ordinary case of the convict thrust out into the world without money or friends.

From the regular prison doctor I got no relief, as I declined his invariable remedy known as the "bomb-shell", a painful cathartic most unsuited to my case. This man, though rude and brutal, was better than his successor, Dr. Summers, whose mania was that the injection of a 32-inch rubber hose and a gallon of water was the cure for all ailments. I have heard strong men howl with agony during this treatment, which was administered most mercilessly.

Thus far my narrative has had little sensation to offer. Why should it have? The uniform tragedy of prison life is its cruel monotony; the useless, thankless, unremunerated task worked out daily under the rifles of the guards. This and the fact that always "the eye that watches through the door is pitiless and hard". But I was soon to learn that this steady pain has its frequent spasms of acute agony, although this knowledge did not come at first. There is constant effort to preserve appearances, and it is with all the secrecy possible that actual physical torture is applied. Before considering this subject, however, I wish to give one or two more instances of that heartlessness which is the invariable note.

Few things excited more general indignation during my stay in San Quentin than the wantonly senseless order suddenly issued by Warden Tompkins that all pictures and books, other than those belonging to the prison library, be taken from the cells and burned. Many convicts had in their cells pictures of their loved ones, to which they clung desperately as the one bright spot in a colorless existence. The order was executed ruthlessly, a huge bonfire being kept going for days.



I had numerous proofs of the bitter heartaches this truly tyrannical edict caused, and it has stuck in my memory as a typical brutality. The present warden, I am happy to think, is incapable of such an act.

Another simple incident that occurred about the same time affected me painfully. There is an aged professor now living in California, utterly broken in health, who, before his commitment to San Quentin, was a celebrated botanist and closely allied to one of California's most famous governors, having been his secretary. This veteran's trial on a charge of forgery was one of note and was much discussed. At the time of my own incarceration he had been in San Quentin some fourteen years, and was about 70 years of age. As head gardener he had done wonderful work, having raised hundreds of thousands of choice plants, the proceeds from the sale of which went—one knows not where. For even vegetables, which flourished greatly under his care, rarely found their way to the prisoners' table.

This old man fainted on the stairs one day and had to be taken to the hospital. He had complained to me previously that, owing to poor teeth, it was impossible for him to masticate his food. Still under the delusion that I was in favor with the warden, I ventured to call on him and pleaded the old man's cause with all the energy at my command, reminding the warden that this sufferer had done loyal service for many years, and that, like an aged and faithful horse, he needed special care. I begged for him one of the easy clerical positions that I myself had recently declined, but my plea was gruffly denied.

In my judgment the influence of Warden Tompkins was an evil one throughout. I am no prude and



seldom make wry faces at the class of stories that are described as "off color." But I dislike filth, and consider it well nigh unpardonable when disseminated by the head of an establishment in which sexual degeneracy is one of the ever present dangers. Now, among the curious documents in my possession is a stenographic report of the stories that this man Tompkins indulged in at his last prison banquet, attended by the entire official force. The stories are not amusing, they are plain bestiality, and of course they went the rounds.

In short I put it mildly when I say that the San Quentin officials were of a most inferior type, and it was this discovery which partly determined me to work on my release for the transformation of the penitentiary into a reformatory. I harbored no delusion to the effect that the system would be revolutionized by such a change, but I saw clearly that the first step toward a better treatment of prisoners lay in the introduction of a better class of officials. Moreover, it is easy enough to see why it is that the politicians uphold, in their entirety, the conditions as they now exist, and as they have existed, with little amelioration, for the last sixty years. It is simply because not one out of a hundred of their appointees could pass such an examination as any decent reformatory system would impose as a prerequisite to employment.

I had been mistaken in supposing I was in favor with the warden, but it was only at a much later date that I was able to grasp the true situation. In reality I had been guilty of an unpardonable crime, having unconsciously avoided the trap set for me, as it is invariably set for all who are supposed to be pos-

sessed of means. It was only when I got on close terms with a leading official that I learned that the intention had been to bleed me, a trusted "con," who was serving a life sentence, being used as the stool pigeon. According to this scheme I was to be given a soft job, then suddenly degraded, then restored and so kept on the see-saw, being rewarded or punished in proportion to the readiness with which I gave up money. This plan I had upset by my insistence on remaining in the jute-mill and my anxiety to share the ordinary prisoner's lot. The reason why my request for a transfer to room "A" had been granted so readily lay in the fact that the "con" selected for my case was an inmate of that room.

One favorite method of working the man of any means, however small, is to praise him for his good behavior and hold out hope of speedy parole. The victim is then advised on the quiet to secure the services of a certain lawyer who has a special pull, and the negotiations are delayed indefinitely while the convict is putting up his last dollar in the hope of regaining his liberty. I have the particulars of several such cases, and one in which the convict bravely refused to pauperize himself at the behest of a representative of a former governor of California. That, in the past, pardons depended largely, if not solely, on the ability of the prisoners to pay was notorious, and the figures on this head in the state library are most suggestive reading.

The truth is that the official life of San Quentin burrows deeply underground. The prison was operated on the spy system, and the most intrinsically vicious were naturally used as being the most pliant tools.

There were in my time about 100 specially favored convicts, who had soft jobs, ate at special tables, had superior food and enjoyed other privileges which, though in a life of freedom they might appear trifling, are rated in prison as of inestimable value. These favors were won mainly by Judas service; they went to the most contemptible of his kind, the stool pigeon. Revenge and greed are the moving passions that actuate such men, and the helplessness — the unspeakable helplessness — of the caged and voiceless convicts furnishes the unlimited opportunity.

In the enormous majority of cases of cruelty and gross injustice documentary proof cannot, by the very nature of the circumstances, be obtained; but it is possible for one who, like myself, has talked repeatedly and intimately with those who actually know, to reach conclusions that have all the force of moral certainty. If I could convey to my readers a clear mental picture of the conditions under which most of the numerous confidences I received were given; if they could only have witnessed the hesitancy, the dread lest the information given should be traced to the informant, causing him to be "jobbed" or tortured; if I could make them understand, as I understand, that the men had everything to gain and nothing to lose by keeping silent, they would comprehend that testimony so acquired is most reliable. During nearly three years passed in jail and prison I unremittingly pursued my investigations, and throughout the three years that have elapsed since I regained liberty I have been gathering up the threads of the evidence accumulated; confirming, eliminating and assuring myself at every point.

Even when the evidence is complete and conclusive it is most difficult to use it. I have affidavits to which in all probability I shall be unable to give publicity for years to come, lest men still in confinement should suffer from my indiscretion, and others who are out on parole be spotted and jobbed back. I even hesitate to call attention to the following sample case, but the fact that the leading incidents occurred under officials who are no longer in power, and the additional fact that the affair, in its earlier stages, was discussed vehemently by the San Francisco press, seem to justify me in speaking out.

Boston Blackie, a long termer, together with an Irishman and a negro, both now dead, had been tortured for many days in the strait-jacket. All three emerged from the dungeon crippled for life. Shortly afterwards the Irishman and the negro finished their terms, were discharged and went to San Francisco, where it was found that each had lost the use of his arms. The negro at once became a public charge, as he could not lift his hands to his mouth to feed himself. The papers took the matter up, the legislature happened to be then in session and a committee of investigation was appointed. What followed?

Just what always follows. Long before the committee reached San Quentin every preparation had been made to give it a hearty welcome, and the ground had been well arranged. The main difficulty lay in the fact that Blackie would have to testify. His hip had been disjoined by the strait-jacket, with the result that one leg was permanently shorter than the other. The question was how to "fix" Blackie, and the question was answered easily. He was given to

understand clearly that if his testimony was unfavorable he would be put again to torture; but that if it was favorable he would be rewarded with an easy berth. So Blackie, who had never known what rheumatism was, swore readily that his injury was due entirely to that disease, and that his experience in the strait-jacket, by the warmth it engendered, had, if anything, done him good. Blackie committed perjury at the compulsion of the authorities, the committee reported favorably and the storm blew over.

But the full details of this case are known to hundreds, and prison opinion, in which I myself concur, justifies Blackie's course. Self-preservation is nature's basic law, and Blackie's life was at the mercy of the officials who dictated his testimony. Every convict is equally helpless, and this helplessness is the fundamental fact that must not be forgotten. For, however much mankind may have succeeded in curbing autocratic despotism elsewhere, in such establishments as San Quentin it reigns in all its pristine vigor, holding the keys of life and death.

Flogging is no longer permitted as an official punishment in San Quentin, but the older convicts will give you awful accounts of the tragedies of former years, when it was a common occurrence to see prisoners stripped naked and beaten till the blood formed a pool around their feet. They point out where the whipping post stood and tell terrible stories of men done to death with fiendish cruelty. It may be said that this belongs to the past, but the basic factor in the case—the helpless convict at the mercy of his too often brutal keepers—remains unchanged. I have given in the Blackie case one instance; let me

add, at the risk of unduly harrowing my readers, others from my own personal experiences.

It is rarely that morphine finds its way into the prison, all officers being on the watch against it. A man named Edwards, who now lives in Los Angeles, had come from the east and found his way into San Quentin. He was a skilled mechanic and had proved as such most useful, but he suffered greatly with his stomach from bean diet, and was often compelled to lie down after eating. A stool pigeon pointed out this peculiarity and declared that Edwards was a dope fiend and probably engaged in smuggling opium into the prison. The unfortunate man was a stranger to California and had no connections on the outside. He insisted vehemently that he would not know opium if he saw it, but the warden's instructions to the captain of the yard were: "Lace the —— in the jacket tight and keep him there until he tells." So in the jacket Edwards was kept for what is said to constitute a record, 140 hours, and he emerged — crippled for life. I know this man well. He had a powerful physique and wonderful endurance, which doubtless accounts for his having survived the ordeal. Today he is a helpless wreck, and all the recompense he received is 'Tompkins' subsequent acknowledgment that a mistake was made.

This episode gave rise to much talk, which grew louder when J. Wess Moore was punished. Moore was serving a life sentence for homicide, having killed a man in a dispute over a mining claim. He always protested that he had acted in self-defense. Anyhow, he had been a model prisoner, and, at the date referred to, was librarian. He was accused of smuggling a letter out of prison by the "grapevine"



route, and was ordered to be put in the strait-jacket. Subsequently, in view of his advanced age, the sentence was changed to solitary confinement, with bread and water diet. Now it happened that Moore had been a G. A. R. man and a comrade of one of the guards. The latter talked the matter up during one of his visits to San Francisco, with the result that influence was brought to bear that resulted in Moore's release from the "solitary" and the forced resignation of Tompkins. Moore eventually was paroled and proceeded to work actively for prison reform, being a man of education. Being too outspoken he has recently been returned to San Quentin for further punishment.

I may state here that each prisoner is allowed to send out only one letter a month, and that if he wishes to exceed this limit he must obtain a special permit from the warden, which was then a matter of much difficulty. In December I had sent out my regular letter, but as Christmas drew near I found myself unable to resist the temptation of writing to my son. My application to the warden was gruffly refused at first, but I blazed with indignation — seldom have I been so angry — placed the letter I had written before him, that he might read it, and finally obtained the coveted privilege.

Returning to the subject of torture, here is another instance. Joe Fiddler worked beside me on the spooling machine and worked well, there being no complaints. He was nearing the end of his term, having only a few more weeks to serve, but he confided to me one day that he was in mortal terror of a certain guard to whom he had given unintentional offense. Now comes the sequel. One evening, when our task



was done and we were about to fall into line, Joe Fiddler was called aside. The usual mock trial was held and a sentence of twenty-four hours in the jacket imposed. I heard this man's cries and pitiful appeals for mercy — mercy that never came. His shoulders were crippled by the jacket and I myself subsequently helped him to dress. He then told me in detail how he had been jobbed deliberately by Guard No. 2 to satisfy the spite of Guard No. 1.

Workers in the jute-mill frequently were victimized thus. As I have said before, commitment to the torture dungeons was effected as quietly as possible, the alleged culprit being simply ordered to drop out of line. I have a distinct recollection of one such case shortly after my arrival, in which nine men were punished severely for failing to produce cloth up to standard. In many such instances the fault lay not with the workers, but with the rickety old loom and material supplied them. This matter I investigated carefully, for during my term in prison I compiled a brochure on the subject of jute.

Here is yet another case, one which powerfully affected the hundreds who witnessed it, of whom I was one. A poor Italian, working on the hill removal job, fell into a controversy with the guard, probably owing to his entire ignorance of English. He was ordered to the "solitary" for strait-jacket punishment and protested vehemently. Four guards seized him, but he cried so loudly that it attracted the attention of the warden and the captain of the yard, the latter of whom placed both hands on the man's throat and choked him into silence while he was being dragged away. I never saw this man again and know nothing of his fate.

Why did not we, the hundreds of us, who saw this tragedy and sympathized profoundly with the victim, protest? Simply because we were absolutely helpless. There were 125 guards, each a walking arsenal. In addition to the five Gatling guns there were distributed among them, or held in reserve, 108 Winchesters, 60 double-barreled, loaded shotguns, 72 rapid-fire revolvers and 12,000 rounds of ammunition. Only one hopelessly insane would dream of resistance; and, in my judgment, even to plot escape is proof of despair run mad.

During my own term there was only one such attempt, and it took place within a few days of my arrival. Three men lingered behind in the jute-mill after the day's work was done and hid under some boxes, hoping to make their way out that night. But the line is counted as it enters and leaves the mill, and the fact that three were missing was soon detected. Thereupon we were all ordered to our cells, search was made and the culprits were discovered. The exact punishment meted out to them I never learned, but they appeared afterwards clad in red shirts, which marked them as the special target for the guards' rifles should any disturbance arise. These red shirts were done away with after Warden Tompkins' dismissal, in the summer of 1906.

I witnessed one demonstration, however, that was irrepressible and actually had some effect. It was in connection with half a dozen men who had been found guilty of having plotted to escape—a plot promptly exposed by a stool pigeon. They had been placed in solitary confinement, in dark cells on the fourth floor, above the sash and blind factory. There they lingered many months and apparently went mad.

They were said to have torn up the floors, damaged the walls, which were of brick, and acted generally as maniacs. So it became necessary to transfer them to steel cells on the second floor, adjoining those set apart for men condemned to die. The transfer was effected one afternoon, while we were assembled in the upper yard, and the sight of these men, one of whom fainted during his removal, produced a spontaneous outburst of indignation that vented itself in loud and angry cries.

The spectacle these men presented was awful. In several instances their beards had grown to their waists, and they had a pallor such as I have never seen before or since. Shortly afterwards, doubtless as a result of the demonstration, they were released from solitary confinement and put once more to work.

Two murders were committed while I was in San Quentin. The first was that of a notorious and much hated stool pigeon, and took place in the jute-mill one Saturday afternoon, when the day's work was over and the mill was nearly empty. The victim was washing his hands and some one, whose identity was never discovered, crept up behind him and hit him on the head with a heavy piece of machinery, causing instant death.

The second murder was committed by one of a gang of fifty who had been transferred to San Quentin from Folsom. The murderer unquestionably was insane and had been recognized as such in Folsom, where he had given much trouble while working in the quarry. At San Quentin he was employed on the hill-moving job, and one day he deliberately picked up a seven-pound hammer, walked up to a Mexican who was eating his dinner peacefully, and killed him

with two blows. The murderer was sent back to Folsom. The unfortunate Mexican was a young man whose term had almost expired, and was to have been married immediately after his release.

I never heard of any other attempts to murder during my stay, and it will be noticed that in neither of the cases given were the armed guards successful in preventing the commission of the crime.

My assignment to room "A" has been spoken of as a stroke of good luck, since, by its location above the torture dungeons, it gave me access to much information otherwise unobtainable. There are either ten or twelve of these dungeons — I cannot be certain which — lying on either side of a corridor and underground. Each room has its door, and entrance to the corridor itself is by a double door. No mere sighs are audible outside.

The dungeons to the left of the corridor are in almost absolute darkness, but those to the right get a ray or two of light that filters through a tiny casement from the space between it and what is called the "sash and blind factory". There is practically no ventilation and the atmosphere is unspeakable. It was only after long delay and difficult negotiations that I obtained the opportunity of inspecting these cells, and I then saw staples and chains, to which, I was informed, several had been fastened fifty-nine days.

Room "A" had a special toilet attached to it, and from this could be heard distinctly at night the groans and cries of those under torture, especially if they were occupants of the dungeons that lay to the right of the corridor. Sometimes, when the victims were unusually vociferous, their cries could be heard

distinctly in the room itself. I remember, in particular, the case of a Jew, a large, well-developed man, who had been accounted a good prisoner. He was in one of these dungeons two or three days, and his cries were pitiful. I made a point of interviewing this man after his release, but he had the caution of his race and would give no information. He repeated, however, constantly: "They say there is a God. There can be no God. No God would punish as I have been punished."

After his release from the dungeon this man walked with great difficulty and admitted that he suffered intense pain. I have remarked before in this article on the reluctance with which convicts speak of the wrongs suffered at the hands of their superiors, fearing lest what they have said may be reported and revenged.

The public should know exactly what the strait-jacket is and how it works. It is a canvas overcoat, reaching from the head to the knees, in which the victim is tightly laced. Inside it are sleeves so placed that the arms are pinned over the floating ribs. If, through carelessness or vindictiveness on the part of the officer administering the punishment, the jacket is laced too closely, or if the confinement is continued any great length of time, permanent deformity, paralysis or serious internal derangement will result. The natural excretions of the body are much affected and the circulation of the blood is impeded, which, as any doctor will tell you, causes great anguish and often excruciating pains in the head. In Folsom not long ago a prisoner died after he had been in the jacket half an hour.

Prior to my time a law had been passed requiring that no man should be in the jacket for more than six hours at a stretch, and it was, therefore, the custom of the authorities to take a man out for a few minutes every six hours, give him a breathing spell and lace him up again. According to all the testimony of various prisoners whom I cross-examined on this question this intermittent punishment was more painful than the old plan.

It is asserted that this form of torture is no longer in use at San Quentin, but in April, 1908, I received the following telegram: "Strait-jacket cruelties still exist at San Quentin. Man named Rozales recently subjected to torture for ninety-nine hours. Great suffering occasioned." In my time it was the common form of punishment, and among my documents I have the written statement of a reliable recorder that, from the fall of 1902 to that of 1906, the "jacket was in constant use; scarcely a day without two or three victims, and more often six or eight." In any event I am confident that so long as the old conditions prevail, so long as we have on the one hand convicts absolutely helpless, and on the other hand untrained and irresponsible men with those convicts at their mercy, no material improvement can be looked for. If public opinion drives one form of barbarity out another will immediately take its place. In Folsom, for example, they have not used the strait-jacket lately, but have employed in its stead the torture of stringing men up with their hands so tied behind their backs that the entire weight of the body falls on the arms. From Folsom convicts transferred to San Quentin I heard some horrible stories.

After serving nearly a year in the jute-mill I was put in the laundry, being employed in the drying de-



partment, where I served the balance of my term. From forty to fifty of us worked there, and it is generally regarded as more desirable than the mill. Many of the workers in the latter suffered greatly from sore eyes, due to the dust, and these looked eagerly for a chance of getting the cleaner occupation of the laundry. In the matter of personal cleanliness also there was a great advantage, as the laundry men had a regular bath once a week, whereas such arrangements as were made for the workers in the jute-mill were, to say the least, primitive, if not disgraceful. There I have stood, one of a line of from 200 to 300 naked men, in an open shed in the yard adjoining the mill, waiting my turn to stand under the pipe which furnishes the bath. This pipe is some thirty feet in length and is so perforated as to give one a douche. From ten to fifteen men can stand under it at one time.

The state supplies prisoners with a cheap soap manufactured in connection with the laundry, but gives neither towels, combs nor brushes of any description. The man who has the money can purchase these luxuries once in every three months through the commissary department; the man who has no money must go without or borrow. My own hair brushes were shared with some twenty of my room-mates, but such partnership in towels was an impossibility and at the exceedingly public bath it was a common thing to see prisoners drying themselves with barley sacks taken from the mill. Here, as elsewhere in prison life, the arrangements are hardly such as make for a higher and more decent civilization.

The maladies most common in San Quentin were stomach trouble, which I attributed largely to the constant bean diet, tuberculosis — to prevent infection



from which no precautions whatever were taken — and rheumatism. These two latter, in my judgment, can be traced largely to the insufficient accommodations of the laundry. It has a small interior drying room, but this is taxed to the utmost in caring for the belongings of the officers, guards, their wives and families, which must be attended to at all hazards. The prisoners' clothes are dried almost entirely in the open air, which meant that when rainy weather set in they were not dried at all. I have seen them returned often to the cells as wet as when they came from the wringer. I know that unfortunately hygienic discussions lack that dramatic interest which seems to be necessary to catch the attention of the public, but I have a strong opinion that the business of the state should be to see that when a convict is restored to society it shall be under conditions that give him at least a fair chance of becoming a useful member of the community. As it is, the fate of the discharged convict, without money or friends, and a conspicuous mark for detectives who are only too anxious to gain money and promotion by running him once more into jail, is desperate enough. The added fact that the authorities have been doing their best during his incarceration to undermine his constitution and cripple him with disease adds materially to the shame of the situation. In the course of my own agitation for the indeterminate sentence and the securing of employment for discharged convicts I have accumulated a very considerable literature, and I can find no one who has expressed my own views on this question better than a noted convict who narrowly escaped death on the gallows, but is now a free man, his innocence of the murder with which he was charged having been finally established. In a

long letter to me on what he styles "The Court of Rehabilitation" this man remarks: "Has not the state, so clear in defining the duties of the individual to itself, failed in its duties to the individual?" I think so.

My work in the laundry, while sufficient to keep me busy, was not unduly hard, and it may be said in general that it is not the laboriousness of the tasks set, but the galling conditions that accompany them and the constant dread of unmerited punishment, which makes life hideous in San Quentin. My fellow-prisoners and I worked harmoniously, and I should remember little of the days I spent in the laundry but for the fact that there the intrinsic horrors of capital punishment were brought home to me as they had not been brought before. Six executions took place while I was in the prison, and on each occasion we were locked in our cells or in the several workshops. In the jute-mill I grew keenly conscious of the view the convict takes of the much-mooted question as to whether or no the state itself has the right to take life. On each occasion I found the sentiment of the mill practically unanimous, the whispered comments while the culminating tragedy was in course of enactment invariably being that the state was committing another murder. But in the jute-mill we had no physical evidence of the deed that was being done, whereas in the laundry the thud of the falling body was distinctly audible, the entire building being jarred. Such experiences register impressions that time does not efface.

At the expiration of fourteen months I was moved from room "A" to room "7", and there I passed the remainder of my term. It was the largest room in the prison, and from fifty to sixty of us shared it, but

since then it has been made to accommodate over two hundred, the prison having been greatly overcrowded. My roommates were much of the same character as those in my previous quarters, and, my reputation as a reader having become established, I had a large and most attentive audience every evening. I need not say that this occupation gave me the most intense relief and I fell into the habit of looking forward eagerly to the coming of the night. The matter I read aloud was from the best periodicals, such as the *Literary Digest*, the *Review of Reviews*, the *Scientific American*, and similar publications, and I soon discovered that it was a delusion to suppose that the ordinary man cannot appreciate good literature. The real trouble, I think, is that he has not the knowledge necessary to make judicious selections. So far as I know only one other prisoner had tried the experiment of reading aloud to his companions, and he had done it but occasionally. This was "Buck" English, in for life for highway robbery. He was a bright fellow and most popular. I may add that, when we ourselves were through with the magazines, we invariably sent them to the cells in which those condemned to death were incarcerated.

Although room "7" was orderly enough it had one bad feature, a group of degenerates having their bunks in one corner. The San Francisco hoodlum gangs, composed of young fellows, have a bad name in this respect, but one of the culprits in this room was an old, gray-haired man, who was serving his fourth term for sexual crime. He would follow certain boys about with all the abandon of an impassioned lover, and was certainly insane on that particular subject. It is one of the most alarming vices that prison life engenders and the large and rambling

jute-mill, with its dark corners and piles of material, lends itself readily to such acts. It is impossible to exaggerate the cynicism with which experienced guards speak of this subject, treating it as a matter of course, and quite impossible for me to reproduce here the facts that came to my knowledge. They include the irremediable physical ruin of the merest lads, who become infected with the disease that is rampant among convicts.

In this room there were even more old men than I had found in room "A", several being over eighty years of age. They were full of information as to the past history of the prison, and from them I obtained a great insight into the life of the habitual criminal, the causes that make him what he is, and his view of existing social institutions, which is by no means flattering. As I have said before, all my experience has convinced me that the ordinary convict is far more sinned against than sinning, and I may add that, having for long months watched the conduct of convicts on the one hand and guards and detectives on the other, I am of the fixed opinion that in many, very many cases, they might change roles with a closer approximation to justice and advantage to the state.

The room tender was named Frank Klessner. He had received a life sentence for killing a man who trespassed on his ranch in Tuolumne county, and had been in San Quentin some twenty-five years when I made his acquaintance. Throughout that period he had proved himself a model prisoner, and he and I became great friends. In fact, I bequeathed him my precious chair when I left the prison. This man met with a most unhappy end. Shortly after I left San Quentin he was released on parole and returned to

the ranch that had been the scene of all his trouble. The house was occupied by his daughter, of whom he had spoken to me often, and her husband, for she had grown up while her father lay in prison. Since the ranch still belonged to Klessner they had to give him shelter, but it seems that his welcome was not a hearty one, and doubtless he had become old and cranky. At any rate they applied to the authorities for his return to prison, and just before the arrival of Capt. Randolph, who had been sent to fetch him, Klessner committed suicide by severing the arteries of his wrist, preferring death to reincarceration and torture.

At length the day of my own release arrived. I made my adieux and left as quietly as possible, trying hard, although with only partial success, to avoid the reporters who had gathered on my trail, and declining to be interviewed.

In this article I have endeavored to give, as simply as possible, an account of my own experiences, leaving the reader to draw his, or her, own conclusions. What are my own conclusions? What are likely to be the conclusions of an educated man who, brought face to face with such a mass of human stupidity, has been forced to think? If a more definite answer than this is required I can only say that it is to be found in the program and literature of the Prison Reform League, to which I am devoting much of my energy.

If you tell me that such conditions as I have experienced and described have existed for generations and cannot be materially altered, I refer you to the account given by H. Norman, one of the world's best known writers, of the principal Japanese prison at Tokyo. He tells us that its inmates are put to the highest class of industrial work of which they are

capable, and adds: "If the prisoner can make artistic inlaid metal work, well and good; if not, perhaps he can carve wood or make pottery; if not these, then he can make fans or umbrellas or basket work; if he is not up to any of these, then he can make paper, or set type, or cast brass, or do carpentering; if the limit is still too high for him, down he goes to the rice mill, and see-saws all day long upon a balanced beam, first raising the stone-weighted end, and then letting it down with a great flop into a mortar of rice. But if he cannot accomplish even this poor task regularly, he is given a hammer and left to break stones under a shed with the twenty-nine other men out of 2000 who could not learn anything else." He also tells us that he found only one punishment cell in the prison, which, as he was informed by the official, had not been used for a month. Are we Americans content to lag so far behind Japan?

I am well aware that many will suspect me of having viewed this entire question through jaundiced eyes, being embittered by my own experiences. For the benefit of such I append the report of the special committee of fifteen appointed by the California legislature in 1907 to report on conditions in San Quentin. It was published in the *Assembly Daily Journal* of March 8, 1907, and is as follows:

"The crimes practiced in this institution, in our opinion, are a blot upon the fair name of California. In the first place, the institution is vastly overcrowded. All congregate together, with no privacy whatever. The boys of tender age who should never have seen the inside of these gloomy walls, find themselves under the influence of aged and hardened criminals, and if there is a spark of reformation in this



class of criminals it certainly will soon leave them. The cells are dark and gloomy, containing from thirteen to fifteen or more inmates to a cell. We find that they are locked in their apartments at four o'clock in the afternoon, with no air except what little finds its way through the small gratings of the iron door. This, we believe, is not only injurious to the physical body, but is degrading mentally. The prison directors claim that they are powerless to change this condition and if the bill, which has been introduced, should pass, requiring the segregating of prisoners, that they would be helpless and could not carry out its requirements; but, after going over the situation carefully, we cannot see why the large brick building known as the old furniture factory cannot be equipped with cells for the use of the younger and less hardened criminals. They may say that this is an unsafe building, but it has passed through the earthquake unharmed. It stands within the prison walls, and we are unable to see in what degree it is unsafe. This could be arranged with but very little cost, and would no doubt save a large number of young men from coming under the influence of the more hardened type of criminals. While it is true that they must come in contact more or less during working hours in the jute-mill, yet while they are at work there is very little opportunity for them to converse, and if they are separated at the close of the day they would scarcely know with whom they had met during the day.

"There seems to be complaint regarding food, and some of the inmates informed us that they not only had an insufficient amount, but that the food was poor in quality. This, if true, ought not to be. While we believe that the food should be plain, yet it should be



nourishing and in abundance, and we believe that if our state is paying for the very best quality that can be had in the market, the board should see that it is supplied. At the session of 1905 there were \$310,000 appropriated for new buildings. Before this new building can be erected it is necessary that a hill be graded off. They are now removing this hill, but, judging from the work done in the past two years, it will be a number of years before a start can be made upon the new building, and in the judgment of your committee altogether too much money is being expended in the work of grading the hill. Below are the names and number of people employed upon this work:

#### STATE BOARD OF PRISON DIRECTORS' SALARIES

For January, payable out of the appropriation for additional cells, State Prison, San Quentin.

	San Quentin	Folsom
W. R. Eckart, consulting engineer, January salary .....	\$150.00	\$150.00
N. A. Eckart, assistant engineer, January salary .....	125.00	125.00
J. H. Wilkins, superintendent of construction, January salary .....	100.00	100.00
H. Harrison, locomotive engineer, January salary .....	120.00	
P. S. Brown, assistant foreman January salary .....	75.00	
O. Engle, sub-foreman, January salary .....	70.00	
R. Jones, sub-foreman, January salary .....	70.00	
Chas. Redding, sub-foreman, January salary .....	70.00	
P. H. McGrath, secretary prison directors, One-fourth January salary.....	37.50	37.50
F. R. Collins, draftsman, 121½ hours at 70c.....	85.05	
Totals .....	\$902.55	\$412.50

"Two extra guards \$130 per month, making a total of \$1225 per month. We are also informed that one-half of Mr. Oliver's salary is paid from this fund. Leaving this item out, the total seems to be \$1225 per month, or a total of \$14,700 per year. We think that this is altogether too much to be paid for this class of work, as you can readily see that in three or four years it amounts to quite a large sum. The question we ask is, would not one good foreman at about \$100 per month be all that is needed to accomplish the same results?"

Every one who has the slightest acquaintance with public life knows how cautious the reports of such investigating committees invariably are, and how little they see of the real and graver abuses that lie below the surface. In connection with the committee's criticism of the expense attending work at San Quentin I may add that, under a former warden, the legislature appropriated \$5000 for the erection of a shelter shed at San Quentin, which was located in the upper yard. It still stands there, and those competent to form an estimate have told me that it did not cost \$500, let alone \$5000.

## CHAPTER V.

### SAN QUENTIN, AS A FEMALE PRISONER KNEW IT

The female occupants of our penitentiaries are comparatively few in number, and, although much is being written nowadays concerning the treatment meted out to male convicts, that to which women are subjected has excited little attention. The Los Angeles branch of the Prison Reform League is the possessor of the only detailed and quite recent account of life in the female department at San Quentin that, so far as can be ascertained, is in existence, and this chapter is given as a fitting pendant to Col. Griffith's story. Like his, the account discloses conditions that call for prompt and unflinching investigation. We have only to add that the league has corroborated this account by the testimony of three past and two present inmates, and to remind our readers that it is always among the most difficult of tasks to obtain and verify such information. For obvious reasons the name of the narrator is withheld and every care possible has been taken to shield from publicity those to whom reference is made. Incidentally it may be remarked that after the obtaining and verification of this account the prison authorities were warned that a full exposure would follow refusal to bring about instant reform. We summarize in part and quote extensively. It will be seen that the woman in question is far from being uneducated. She was an inmate of San Quentin several years.

After premising that, in the colloquial phrase of the day, the "lid to the women's department in San Quentin has been on tight for many years, and dire indeed

are the threats made against the one rash enough to remove it", the writer states that "it is utterly impossible to tell *all* the truth"—the reason for which remark the reader will have no difficulty in comprehending as he follows the account, which contains at the outset the following description of the women's quarters:

"A door opens from an office, and you enter a place that looks for all the world like a bear pit, with its thick, gray walls on four sides and cement floor. This pit, by actual measurement, is 60 ft. by 90. Out of this oblong a building, 40 by 20, is taken; so, if you are good at figures, you can see just what room is allowed for clothes-lines, exercise, garbage cans, etc. The feet of these poor women never touch the ground of mother earth, and all exercise, which is optional, has to be taken on this cement floor. Midway in the place is the hopper, and on the other side hang the thirty or forty buckets used in the cells from 4 p.m. to 7 a.m. Opposite stand the immense garbage cans, and, as they have no covers, the aroma that greets the olfactory nerves is indeed overwhelming. No benches, whereon one might sit to get the sun, are in the pen, and the matron will not allow the women to carry out a chair; so, if one must have a little sun and air, the only alternative is to squat on the stairs leading out of the yard to the cells, or sit on the cement flat and let one's feet hang down. Either plan is conducive to sorry comfort, helping the rheumatism and stiffness of joints so much in evidence among the inmates. 'Why cannot the warden allow a few benches to be placed along the gray walls?' was asked many times, and the reply was that seats would injure the cement! Never mind the women. They are here for punish-

ment; and I can add feelingly that no stone was left unturned to see that they got all that was coming to them.

“The hopper referred to deserves a special article. It is situated in the laundry room, and is an old-fashioned thing, about eighteen inches in diameter. Into this must go the contents of the buckets I have mentioned, and as this deposit must take place as soon as the women are dressed, the scene that follows beggars description. There were two large holes in the floor of this laundry, and as the filth from human bodies accumulated and overflowed the hopper, a stream ran into these holes and this filth flowed, under the dining-room and kitchen, out under an office, emitting a stench that finally attracted the attention of some officer. The matter was then remedied slightly, but the vile conditions of the hopper remain.

“The pen, or pit, is also the playground at night of an ever increasing army of the most gigantic rats, and the stairs, platforms and yard bore unmistakable evidence of their nocturnal ramblings. As the women emerged from their cells in the early morning they reminded one of cave-dwellers, and the agility which had to be used to clear away these remembrances of his ratship was something long to be remembered. They also invaded the kitchen and pantry, and mute evidence of their presence was often seen in the beans, rice and other foods, if the cook was not careful. Try, if you can, to imagine the air in such a place. Small wonder that the health gives way, and that tuberculosis, rheumatism, sore throat and kindred diseases are prevalent; while the only remedies are a handful of calomel at night, and a dose of salts in the morning, ladled out by the wholesale to the miserable creatures.

"Just outside the walls, we knew, were the blue waters of the bay, but never a glimpse for us. Just outside the fresh air and the bright flowers, but not for us. Just outside the green of the hills and God's ground to walk on, but only cement for our tired feet. Oh! Exquisite torture! Can it ever be forgotten? How I envied the men who could go out on the ground and spade! How much would I have given for a garden; a little plot to work in, just to feel the ground! Is it not too hard to be deprived of everything as well as liberty? The awfulness of it cannot be imagined unless you have experienced it. With King Lear one may well exclaim: 'This way madness lies.'"

After reiterating that she has in no way exaggerated the picture the writer refers to the "brutal, ignorant and petty tyrants who hold their places by virtue of a political pull," and remarks that "many of the officers have been feeding at this public trough so many years that all finer feelings, if they ever had any, have become calloused and numbed from gazing on human suffering."

The windows of the cells open on this pen, and those afflicted with catarrh or tuberculosis expectorate freely from them without rebuke. "Let us now ascend the stairs on the east. Here we enter a hall running north and south, some fifty feet, or more, in length. From this open seven cells, 7 by 10 feet, in which two, sometimes three, women are crowded. Old-fashioned wooden bedsteads, with boards for springs, are covered with hard straw ticks and heavy gray blankets. For a pillow you must roll up your coat, or collect enough cotton flannel pieces from the floor of the sewing-room to form one. . . . From the hall just mentioned another hall opens, running east and west,



the length of three slightly larger rooms. These rooms face north and never get a ray of sunlight, and one is called the 'hospital.' Its walls are always wet, and green moss forms, of course. One woman has lived in one of these damp, cold places twenty-three years. She would be paroled if anyone would give her a home. Why do not these club-women, and others, try to do something for the women, even if they are accused of murder, when men who are guilty of the same crime are being paroled and assisted by women every month?

"Along this short hall are five windows, opening on the men's yard, where are flowers and fountains. That is, they would open if they had not been sealed down tight and painted over, so that the poor wretches can not see. Some inquisitive daughter of Eve long ago scratched away the paint on three of the panes, in places about the size of a dime, and here you will see those who are tall enough, standing, with eyes glued to these little peep-holes, feasting their gaze on the flowers afar off. From this hall we enter the dining-room, containing five windows, also hermetically sealed and painted over, a pine table and a stove, and a bare floor. For years the stove refused to draw, and I have seen the smoke pouring from it in such clouds that the only refuge for smarting eyes and throats was outside, no matter how hard the rain might be pouring or the wind raging.

"The sewing-room comes next, and here stand two old, broken-down, worn sewing machines that are, at least, fifty years old. The running of these old soldiers is enough to kill the ordinary woman. This room also has windows sealed as are the rest, and any ven-

tilation must be by the door, which, on cold and rainy days, cannot be opened. The foul air of these two rooms is something awful.

"From the sewing-room opens another long hall, with eight cells opening to the east. This hall is some sixty feet long, and has little windows high up that originally were meant for ventilation; but these, like the others, are sealed. At the north end of this hall is the one toilet. Beyond this is a bathroom, which is kept locked, and has the sole faucet from which water can be obtained. All are compelled to go down a long flight of stairs across the yard to the laundry for water, no matter how hard the storm or wet the steps and yard may be. As the state provides coverings for neither head nor body one is soon wet through.

"When the door of the sewing-room is closed at night no possible breath of air can enter closet, halls or rooms, and the smell can be likened to nothing less than that of a charnel-house, for all colors and classes are penned in together. White women who are cleanly and neat are next to some vile-smelling negress, Chinese or Mexican woman. The only place where even a semblance of heat can be found is at the old, smoky stove, whose grate is held in place by an oyster can, and whose missing leg is supplied by a broken flatiron. There is no heat whatever in the room, and after 4 p.m. one must either go to bed or sit on the hard bed and suffer. All lights go out at 9 p.m., and if one is taken ill during the night one must grope and stumble around as best one may."

The writer admits that the work is not hard, the most laborious part of it being the carrying water up and down stairs in all weathers, as the halls and rooms are scrubbed twice a week. From eighty to a hundred

suits of underwear have to be made each week for the use of the men, but this, like the other work, is divided up. One woman acts as cook and there is a dining-room girl, whose duties are entirely below stairs. Nothing is taught that can be of the slightest use to the prisoner after her discharge, the accomplishments to be learned being cigarette smoking — each woman receiving every Monday afternoon her sack of tobacco and package of papers — and other vices. As to which the writer remarks: "Nearly every woman there has voiced the sentiment, not once but many times: 'I shall be a thousand times worse a girl when I leave this living hell than I ever dreamed I could be.' And it is true, for the viler, lower traits are so encouraged, and whatever better impulses one possesses are so smothered and killed, that the entire nature is changed for the worse. This is no idle statement, for we all know that constant fear breeds hate, and from hate spring all the baser passions."

The state supplies each female prisoner every six months with six yards of white cotton, six yards of tennis flannel, and two pairs of hose. She is given also two blue denim dresses and one heavy blue flannel dress, called a "reception dress". But it does not supply any underwear, corsets, underskirts, garters, hats, bonnets, coats or overshoes, and the sufferings of those who enter without such supplies and have no money to buy them are extreme. For there is no heat in the cells, and the thick walls, when thoroughly wetted and chilled, remain so all winter. "It would have been amusing, were it not so pathetic, to see the straits to which the women were reduced to find something that would answer for underclothes, and they picked up from the sewing-room floor scraps of cotton flan-

nel and, by great ingenuity and much labor, made garments. These garments, being most bulky, were refused by the laundry, as they broke the wringer." In one of such garments the writer counted two hundred and forty pieces. The further comment is made that, although the state is supposed to issue the supplies previously mentioned every six months, they are habitually held back. If, therefore, for example, a woman's supplies are due in April and she is to be released in May, she will be told that the supplies have not arrived, and will leave the prison without getting them.

As for rules, they are non-existent. What is right today is wrong tomorrow. One does not know until, in the matron's own phrase, she "lands" on one.

The state furnishes enough raw material to furnish a fairly palatable bill of fare, if the cooking were but attended to properly, but no fresh fruit is ever seen, and the dried article is of the poorest and cheapest grade. No present that a Good Samaritan could make would be more welcome than one of citrus fruits. There is a rule prohibiting friends from sending in eatables, but it is broken repeatedly, with the knowledge of the matron. Numerous instances of favoritism in this, as in other regards, are cited, especially where the prisoners were able to do embroidery and other fine needlework for the matron. There is supposed to be a stringent rule forbidding making presents to or doing work for a prison official. "If anyone were so interested as to investigate he would find 'Buzzard's Roost', as the matron designated her abode, literally lined with pillows, table covers, pillow shams and other articles too numerous to mention, forced from the women who hoped by thus catering

to her greed to enjoy some of the favors they knew she could and did give to those who worked for her."

There are practically no bathing facilities, the bathroom, as has been mentioned already, being kept locked and no hot water being obtainable. There is, indeed, another bathroom, but it is used for storing oil cans and other articles.

The absolute autocrat of this department was, of course, the late matron, with whose personality this narrative deals at great length. For the present it suffices to say that she is described as having been an incurable gossip, of the foulest kind, showing special partiality to negresses, and completing a day's work that averaged about five hours by leaving the establishment to itself at 4:30 p.m. "After lock-up at 4:30 the den is left entirely alone, and the lowest of the women then employ the time quarreling from their windows. If an enemy is near them who is half way decent, the oaths, the vulgarity, the terrible remarks that only a degraded woman can use are allowed to be made, and a flood of billingsgate is unloosed that can be equaled nowhere else in the world, I am sure." Special reference is made to the cook, who was a negress, and, being a pet with the matron, had been appointed — librarian! "This negress had a particular antipathy to Mrs. B., and at night, her cell being the only one unlocked, would parade up and down the halls, saying everything a vulgar, depraved mind could suggest. We informed the matron, who frequently punished white women for lesser offenses than this, and the next night we were abused so much worse that it was of no use to report the matter."

When an application for parole is made one of the questions invariably asked is: "What religious in-

struction or teaching have you had in prison?" Commenting on this the writer says that the San Quentin chaplain held a little service in the office about once in every three months, but that no one was invited to attend, and that those who did were obliged to hear all manner of ridicule directed against him by the matron. "Many a time after the California Club women or the Salvation Army lassies had held their services in the office, the table would be rolled back and the negro women, and those of the white women who were low enough in their tastes to enjoy such a spectacle, would be called in and, while one would strum on a banjo, the rest would raise their clothes and give a leg show. The higher kickers they were the better the matron enjoyed it." At the same time gambling would be in progress. An attempt to form a bible study class was stopped. No books that could be used for educational purposes were obtainable, and every effort toward self-improvement was discouraged.

"For many years no women were allowed to penetrate to this department. Mrs. Jean Sinclair, to whom all honor is due, worked ceaselessly for a year before she was allowed to get in, and if she, or other members of the California Club of San Francisco, wonder why her work did not seem a success, I want to say, right here and now, that it was because of the ridicule by the matron. We were also given to understand, in no uncertain terms, that the best thing we could do was to absent ourselves from the room when such meetings were in progress."

It is charged that the abuse of the white women by the negresses was deliberately encouraged, and that repeatedly, to the accompaniment of guitars, the matron could be seen waltzing with the big negress



cook, whose relations with her were a constantly discussed and most revolting scandal. This negress is said to have ruled the women's department and, "notwithstanding the fact that she was one of the worst women there, by the matron's own statement, yet she had the most privileges; she was never punished or even reprimanded for her dreadful statements and wicked talk; she was given the place of cook, which carries with it special privileges, such as warmth, baths, good food, being unlocked at night, and many other favors. The white women were at her mercy." This is the woman whom the matron, as mentioned previously, appointed librarian.

"I saw a colored girl, Trixie, throw bread, beans, plates and dishes at Bertha B., a white woman, across the table at supper, for some fancied wrong. The fusillade of dishes very narrowly missed Mrs. B., and one of them cut a deep gash, from which the blood flowed freely, in Bertha's arm, which was defending her face. Was Trixie punished? What a foolish question! She was colored. A few days later a poor, half-demented woman, Etta F., was impudent, so the matron claimed, and, without consulting any officer, the poor thing was thrown into the 'hole' and kept there nine days and nights, sleeping on the cold, damp ground, and having only bread and water."

There follows an account of a quarrel between the matron and the colored cook which led to the former informing the other prisoners, in the filthiest language, of the way in which their food had been treated, out of spite. It is quite impossible to print this account, but the writer says: "No wonder we were often made sick by the food, to the point of the whole band of us throwing up the filth we were obliged to eat. The

dining-room women, Grace and Barbara, told the matron what the cook had done."

Reference has been made to a woman who was thrown into the dungeon for nine days and nights, and the following description of the "hole," as it is called, is given: "It is a vile place, six by ten, without a ray of light or even a crack for ventilation. One is thrown in here with a straw mattress on the cement floor and a pair of blankets. It is damp, is never cleaned or aired, and after one is there for a few hours the oxygen is exhausted and the head feels as if a tight band were around it. A hunk of bread and a pail of water furnish the food, and, as one is not allowed anything else, the condition of the hair and body can be imagined. Women are thrown into this place at the pleasure of the matron, without any investigation and without being allowed to appeal to the warden, who indeed has stated that 'he did not know much about what went on in there,' meaning the women's department." The following astounding report of incarceration in the dungeon is then given:

"A lame woman named Jennie Downey was brought there (to San Quentin) some six years ago, who had some valuable papers and notes. These were taken from her. She asked for a receipt for them, and, without warning or explanation, was dragged down to the dungeon and literally thrown in. In this vile place she remained EIGHTY-THREE days, in the conditions I have before described. While in there she was subjected to the most dreadful abuse by the negress who was trusty. The small bottle of water given her was filled with urine instead of water, and her clothing literally dropped off her. She refused to apologize to the matron and was then put in the strait-

jacket and given heavy doses of castor oil. You can imagine the result to the poor wretch. She was at last taken out and given a pair of crutches. These crutches she was allowed to keep until May, 1908, when, on some trifling discussion about her name arising, she was knocked down by the matron, dragged to her room, and shut in on bread and water for three months. When she was allowed to come out her crutches were not given to her and her only means of locomotion was to hitch along in a small rocking-chair. As late as June 7, 1909—more than a year—this has lasted. I know nothing since then. It is to be remembered that this woman has to do her share of the work just the same as those who are not crippled.”

If possible an even worse story follows: “A colored woman named Belle N. was serving a term of ten years. At the end of three years, after having been accorded the privileges accorded to all colored women, she turned on the matron and made threats that she would do her bodily harm. This woman was locked in her cell, and for three years, or nearly four, was never allowed to leave it save for one hour every Friday. Just one month before her release should have come she was removed to an insane asylum, and in two weeks was a corpse. A great, healthy animal she was, but dangerous to the matron.

“Another woman, Doshia Nolan, forced her way out to the officers and denounced the matron and her actions in no uncertain terms. Doshia was not punished—at least not with the dungeon—and when I asked the matron why, her answer was: ‘I have more than one way of punishing those that dare to talk about me.’ Doshia soon afterward was stricken with

some disease of the stomach which the doctor could not reach, and the woman is now either dead or dying."

Marie J., the seamstress, who was also a trusty, had the misfortune to witness indecencies too gross for print. Perhaps the situation is best hinted at by quoting from "The Ballad of Reading Gaol," where Wilde says:

"And they do well to hide their hell,  
For in it deeds are done  
That Son of God nor son of man  
Ever should look upon."

The woman was promptly given an impossible task, and, on declaring her inability to perform it, was thrown into the dungeon for two days, obviously as a threat of what would follow disclosures.

In the earlier portion of this narrative reference is made to the fact that the matron carried letters between Fred W., a male convict, and Grace G., a female inmate, and the following episode is given in the writer's own words: "In February, 1909, Grace discovered that a type-written letter addressed to the matron, and delivered to Grace by her, was missing. She reported the loss to the matron and great excitement was noticed, but, of course, nothing was said aloud. The letter was written on a page of paper evidently torn from a day-book, and on a typewriter, and was as follows:

"Mrs. Van Doren,

"Won't you please accept in the spirit in which it is given one of the boxes as a slight token of my appreciation of the many "good mornings."

"I know that one in my position should not presume to offer you a Xmas greeting, and I sincerely

trust that you will not feel offended by my doing so.

“ ‘The other box and the cake are intended for one I care more for than you think, and with it goes all my love, a Xmas kiss and a big squeeze — all of which you will deliver if you will be so kind.

“ ‘Trusting you will pardon my audacity, and with best wishes for you and yours I am, I realize, still

“ ‘A NUISANCE.’

“ He signed himself thus as it was her favorite name for him. The above letter was duly delivered to Grace, with a two-pound box of candy and large fruit cake. As soon as possible (after the letter was missed) a charge of talking against the matron was brought against the woman suspected of having this letter, and, without any investigation, she was thrown into the dungeon, while suffering from the grippe. It was in February, 1909, and it was cold, wet and altogether awful in the vile dungeon. The woman was delirious and in the night fell and severely injured herself. When allowed to come out she was found to be suffering from paralysis of one side, brought on by nervous shock and the fall. Before this woman left the matron confessed to her, in the presence of Grace, that she had made a mistake.

“ The matron did not, and could not, deny that she had brought the letter in, but took the ground that it did not amount to anything. She was very anxious, however, to know how Ruby C., who was cognizant of all that had passed, would stand in case the letter ever found its way to the warden. When Ruby C. told her she would tell the truth, the mental suffering fell to her lot, and only she and her God can know through what she has passed. These things are known to all the women who were there

in June, 1909, but such is the fear under which they live that I do not suppose anyone would dare to tell all she knew. But many of them declared, many times, that if the warden or the board would promise them immunity from the matron's rage they would gladly make known the terrible conditions under which they live.

"The letter, a copy of which I have given, was secreted in a part of the building, and the warden was informed of the whole story and was told, in the presence of a witness, where he could find it and prove, beyond a doubt, the truth of the charge. Whether he has taken any steps toward protecting the women I do not know. But, if the matron told us the truth, no officer is ever reprimanded for doing wrong. Only the unfortunate prisoners suffer. She told us, and we believed it, that 'everything here is a wheel within a wheel,' and that 'we all take an oath when we come into office to stand by each other to the death against anything ever done by a prisoner.'"

This incident has been related at considerable length because, by the very secrecy that surrounds all prison life, documentary proof of charges made rarely exists.

Here is another charge that surely calls for the promptest investigation. "I referred some pages back to the inhuman punishment meted out to Jennie Downey, the cripple. The matron told us that when her time would be almost up they intended to railroad her to an asylum, as they did Belle N., and get rid of her that way. The woman has no friends that know of her plight, and she will be an easy woman to dispose of.

"If a woman tries to get parole proceedings before the board, and has no powerful friends, the matron



simply pigeon-holes her papers and there the matter ends. K. Hansen, the parole officer, wrote to the matron regarding the parole of a sixteen-year-old girl, and as the matron came into the pen from her home the girl was standing on the platform of the stairs. Looking up toward her the matron exclaimed: 'I got a letter from Hansen this morning, and if you come before the board I'll knock you and tell them you're a little tough.' This was heard by several women."

In Col. Griffith's narrative considerable stress was laid on the insufficiency of the medical aid granted to sick convicts, and the utter brutality of the methods constantly adopted. The same note comes from the women's department, as will be seen from the following quotation: "The present incumbent is a dissipated young fellow, who would not be tolerated as a physician in any place save where he is. He was invariably intoxicated when called in, and if it were after 5 p.m. his anger and vulgarity knew no bounds. He would abuse and insult the women in the vilest and coarsest of language, and, of course, the poor creatures had no redress. A poor little Chinese woman was very ill one night, and when her room-mate expressed fears for her welfare the abuse and vile words he made use of were heard up and down the length of the hall. One of the worst instances of the abuse of the helpless and crippled was that of a poor little Indian woman named Juanita. This woman was a sufferer from hip disease and walked with a dreadful limp, one hip being much higher than the other. The matron put this little cripple in the kitchen as helper for the great negress Ethel, and the lazy negress put the burden of the work on Juanita. Many times a day could she be seen lugging two great buckets of

coal across the yard for use in the kitchen, and the lifting of all the heavy pots and kettles fell to her share. She rose at 5 a.m., scrubbed the floor of the kitchen, and started the cooking of the coffee and mush while the cook slept. After many months the little cripple was taken sick, from exposure and overwork, and the doctor was called. When Juanita tried to describe her pain, and placed her hand on her hip and called it her side, the matron and doctor thought it a great joke and told it all over the house, with the remark that Juanita only wanted to get out of the work. In April, 1909, a few weeks later, the little cripple fell for the last time, and when it was seen that death was near much was done for her. She had been suffering all the time from tuberculosis, and in April, 1909, passed away to freedom."

Throughout this account the greatest emphasis is laid, and properly, on the irresponsible autocratic power that the matron wields. We have omitted the far from flattering descriptions of her personal appearance, thinking it best that her picture should be reflected solely in the mirror of the conditions existing under her management, but the partiality she showed and the dread she inspired are reiterated at the very end of the narrative in the following language: "I do not feel that I have made clear to you the abject fear that is felt by the white women in this place. The negresses do not fear her so much, for the reasons I have explained, but the mental suffering she causes never can be told. Women grow so nervous from actual terror that, as one woman expressed it, 'I shall become a chattering idiot if I cannot get out of this vile den. When she comes along and throws

open my door and lands on me I tremble as much as if a big bear stood there.' When I left San Quentin one negress, the big third-timer, was librarian as well as superintendent of the sewing, over capable white women; and another negress, a second-timer, was the dressmaker. These were the easiest positions, as no scrubbing or other hard work was required of them. The matron knew, of course, that it was a humiliation to make the white women work under a negress, and for that, and other reasons, gave them the soft jobs.

"In conclusion I have to say to all who have relatives so unfortunate as to be in danger of going to that living hell — 'Rather than allow it encourage them to commit suicide, for it would be preferable to enduring the horrors of the place.' If, by my sad experience, I shall be able to let in the light to some of the minds of judges who send women there I shall feel that my sufferings have not been in vain. If by my words I can arouse the Christian women of this state to a sense of the awful conditions there I shall have done much. If I can inform Warden Hoyle of what is being done in his name at that place, well and good. If I can only succeed in arousing the public to investigate and help in the establishment of different conditions, I shall count my experiences not lost.

"I have not, and I cannot, tell one-hundredth part of the awfulness of the place, which is fitly described by all the women as a 'veritable hell on earth.'"

Mrs. Hester T. Griffith of Los Angeles, president of the Woman's Christian Temperance Union of Southern California and for years active in prison work, makes the following statement: "I have been at the greatest pains to verify the foregoing account of life in the female department of San Quentin, fur-

nished to the Prison Reform League by a former inmate of the prison. To this end I have interviewed those referred to in the fourth paragraph as corroborating the account, and I am well satisfied that it is true, the fact being that much has been left unsaid out of regard for public decency. Within the past few days I have received, for example, the following from a former inmate of the female department at San Quentin:

“‘ I went to see M. yesterday and if you could hear a story of all she knew and saw you would shudder. The account of the members of the legislature in 1904 and 1905 visiting in the night — after matron had gone home — all of them drunk, of the happenings in the rooms of the fast women there, of the taking of money from the men, especially “ Papa Bliss ” as the women called him, and Capt. Harrison of the guard who accompanied him. It all makes me sick to think of it!’

“HESTER T. GRIFFITH,  
“ Oct. 5, 1909.”

The charge contained in the last paragraph has been confirmed by other testimony.

With shame, as Americans, we append by way of contrast the following description of life among the female prisoners of Japan, written by Elizabeth Sloan Chesser for the *Guardian*, a journal of established reputation:

“ It is difficult to associate the light-hearted, child-like Japanese women with the dark, forbidding and depressing side of life suggested by prison. But even in the Land of the Rising Sun crime and the punish-

ment of it have to be reckoned with, and the question of reforming woman criminals is a prominent one in Japan just now.

“Penology has made rapid advances there of recent years because the Japanese have the capacity of assimilating the best methods of other countries in every subject they seriously consider. They realize that the prevention of crime is even more important than its cure, and the drift of their legislation is toward nipping crime in the bud. They have grasped the fundamental principle that much crime is due to adverse social conditions, and their idea is to lessen temptations to crime by improving the social and economic state of the people and by probationary methods.

“With regard to their treatment of women and girls sentenced to prison for such crimes as theft, drunkenness, arson (a very common and serious crime in Japan, where the tiny wooden houses blaze and burn in a few minutes, and fire spreads quickly from house to house), reformatory methods are rapidly being employed all over the country. When I visited Ichigaya, one of the chief prisons for women in Japan, I was much struck by the humane and curative system that has been organized of recent years. The first impression of the prison contrasts markedly with one’s idea of a prison in this country.

“There are no massive buildings and glass windows with iron bars, no bare stone floors, no long corridors and tiny cells where the prisoners spend long hours in solitary confinement. The buildings surround a central court-yard, and are built of wooden planks or standards, cage fashion, so that the prisoners are living an open air life day and night. The floors are covered with corn-colored matting and the woodwork

is polished till every grain is visible. The prisoners wear pink crepe kimonos, which contrast with their ivory faces and gleaming hair.

"We were taken to one large room where three rows of pink-clad figures were squatting Japanese fashion on pink cushions on the floor. They greeted us with shy smiles and soft murmurs of 'Ohayo,' the Japanese 'Good-day,' while they simultaneously bowed the blue black heads to the ground. Politeness is one of the chief virtues in Japan, and in the prisons special lessons are given in manners and deportment, and classes are even held to teach the art of tea serving, which is an important ceremony with the Japanese. The idea is that whatever raises the self-respect of the prisoner, whatever improves her behavior and manners, aids her reformation. The teaching is very comprehensive. Lessons are given in weaving, dress-making and sewing, and we saw some exquisite embroideries made in the prison and artistic garments cut kimono fashion.

"The prisoners work in sheds all day, so that the cells are practically sleeping apartments, and it has been found that working in association under official control makes for reform and health. Prison in Japan is an educational agency and the women work and are paid wages for what they do. Prizes and decorative awards are also given as an incentive to good work and conduct.

"The Japanese of today could teach us a great deal in the matter of penology. They allow their prisoners more liberty, they show a more sympathetic interest in their welfare, than we do. Everything is done to teach them industry and morality. As their behavior



improves they are given better food and various privileges. Everything and every prisoner is scrupulously clean.

"We visited the bathroom, which contained about fifty quaint little wooden tubs, measuring two feet by four feet. These are not for washing purposes, but are a much appreciated luxury. A Japanese washes before entering a bath, and everybody has heard of the custom of that country that makes bathing a regular household ceremony partaken of in order of precedence. Every prisoner has to wash three times a day and has a hot bath three times a week in Japan. When the prisoners have served their sentences arrangements are made by the state for providing them with remunerative work on discharge."

It is, however, some consolation to reflect that since the foregoing account of life in the female department of San Quentin was written the matron alluded to has sent in her resignation. That the matter should not be allowed to rest there seems, to us, a self-evident proposition.

## CHAPTER VI.

### SOUTHERN CONVICT CAMPS

For a long time we held the opinion that nothing since the days of the Spanish Inquisition has exceeded in horror the atrocities reported from the southern convict camps, but of late that opinion has begun to waver. In these camps, as established by overwhelming evidence, murder, whippings, the rape of women convicts by their guards, and other outrages to be described in this chapter, have been of constant occurrence; but whether all these combined equal in atrocity the secret torture administered in such penitentiaries as we have selected for illustration of our northern methods has become with us an open question. Certainly the mind cannot conceive a picture of more helpless misery than that presented by the prisoner manacled in the "humming-bird" bath or chained down in the water-cure tub, and there is this about many of the southern crimes against prisoners — they are done boldly and in the open; their scene is not a dungeon, impenetrable to light and sound, and it seems possible for the victim to put up a fight and occasionally make his escape. In any event we are willing to give the South the benefit of the doubt, and she needs it, for her case is bad enough. Let us begin with Georgia, for it was there that the voice of utter misery at last succeeded in attracting the public ear. The facts in the case are given, clearly and succinctly, in an article by George Herbert Clarke, pub-

lished in the *Outlook*, New York, in January, 1906, and entitled "Georgia and the Chain Gang."

By an act passed in 1897 and amended August 13, 1903, Georgia created a state prison commission, which was empowered to hire out felony convicts for a term of five years. Both individuals and corporations were authorized to bid for the services of these men, and it was stipulated that \$175 per annum should be the minimum price accepted. Under the provisions of this act we find that fifteen hundred men were disposed of at a single auction sale, held April 1, 1906. Prisoners are disposed of in gangs of not less than twenty-five or more than fifty. In other words they are sold as sheep to the slaughterer, human individuality not being considered. The state obligingly furnishes the guards, and, with cruel irony, physicians. The valuable assistance rendered by these latter may be judged by the following testimony given by Col. Byrd, who was appointed to inquire into and report on the conditions prevailing in the state's convict camps. He is speaking of the W. H. and J. H. Griffin camp, in Wilkes county, Georgia:

"When the door was opened and I had recovered from the shock caused by the rush of foul air I noticed a sick negro sitting in the room. How human beings could consign a fellow-being to such an existence I cannot understand any more than I can understand how a human being could survive a night of confinement in such a den. There was an open can in the center of the room, and it looked as if it had not been emptied in a fortnight. A small bit of cornbread lay on a blanket near the negro, and that

poor victim, guilty of a misdemeanor only, while sick, confined in this sweatbox dungeon, humbly asked to be furnished with a drink of water. It was in this gang that I found Lizzie Boatwright, a nineteen-year-old negress, sent up from Thomas, Ga., for larceny. She was clad in men's clothing, and was working side by side with male convicts under a guard, cutting a ditch through a meadow. The girl was small of stature and pleasant of address, and her life in this camp must have been one of long-drawn-out agony, horror and suffering. She told me she had been whipped twice, each time by the brutal white guard who had beaten McRay to death, and who prostituted his legal right to whip into a most revolting and disgusting outrage. This girl and another woman were stripped and beaten unmercifully in plain view of the men convicts, because they stopped on the side of the road to bind a rag about their sore feet."

The *Atlantic Constitution*, which bravely defied local prejudice to expose these atrocities, said of Col. Byrd's report that "it was not written by a northerner, who does not understand conditions in the South, or the people living in that section; but it is written by one of the South's most distinguished citizens, who did not deal in glittering generalities, but in facts." And his charges are thus summed up by Mary Church Terrell in an article in the *Nineteenth Century*, an English publication of high standing, of August, 1907, entitled "Peonage in the United States."

(1) Robbing convicts of their time allowances for good behavior. (This was shown to be almost universal.)

(2) Forcing convicts to work from fourteen to twenty hours a day.

(3) Providing them no clothes, no shoes, no beds, no heat in winter and no ventilation whatever in single rooms in summer, in which sixty convicts slept in chains.

(4) Giving them rotten food. (It was shown that many of the convicts, buried in the depths of the forests, never tasted vegetables from one year's end to another, the method of feeding them being for the guards, when the day's work was done, to toss them lumps of raw meat which they themselves were expected to cook.)

(5) Allowing them to die, when sick, for lack of medical attention.

(6) Outraging the women.

(7) Beating to death old men too feeble to work.

(8) Killing young men for the mere sake of killing.

(9) Suborning jurors and county officers, whose sworn duty it is to avenge the wrongdoing of guards.

Col. Byrd also called specific attention to the fact that the death rate in the private camps was double that which prevailed in the county camps. He found that in one of the camps one out of every four convicts died during incarceration. In another camp one out of every six unfortunates, "who had committed," as he says, "some slight infraction of the law, if he were guilty at all, was thrust into a camp which he

never left alive." In twenty-one out of twenty-four private camps there were neither hospital buildings nor arrangements of any kind for the sick.

In his general criticism of the entire convict leasing system Col. Byrd says: "The whole political machinery of the state and county stood in with the lessees because the first money earned by the poor victims paid the cost of trial and conviction. Not a dollar of the rental for the convicts reached the county treasury till sheriff, deputy sheriff, county solicitors, bailiffs, court clerks, justices of the peace, constables and other officials who aided in putting the convict in the chain gang were paid their fees in full."

About two years ago *The Outlook* paid much attention to the subject of lynching, which had been brought somewhat conspicuously into public notice by the riots in Atlanta, Ga. In February, 1907, it published two articles giving both the northern and the southern view of lynching. The latter was represented by Mr. Alexander Hooper, a leading member of the Georgia bar, who reminded his readers that Georgia had more negroes than any other state, and that Georgia's attitude, therefore, must be considered typical of the entire South. The article concludes with the following remarks: "The people of Georgia are entirely capable of governing the negro effectively and without any failure either of kindness or justice, and will do so when permitted, protecting him in life, liberty and property. The people of the southern states have more skill in the science of government and more of the genuine spirit of democracy than any other people on earth." Col. Byrd's reports had been discussed extensively when Mr. Hooper



wrote those words, and he must have been familiar with them.

Evidently Col. Byrd's experiences had brought him to the opinion held by us — that the policy of deterrence, though pushed to its extremest limits, does not deter, for he says: "My observation has been that where the strap has been used the least the best camps exist and the best work is turned out by the convicts." The tenth annual report of the Georgia state prison commission, published in June, 1907, teaches the same lesson, for it states that the number of felony convicts had increased in the year 1905-1906 — the last for which full figures were available. On the other hand the number of misdemeanor convicts on the county chain gangs had decreased fully ten per cent., but the secretary explains this by saying that, on account of the scarcity of labor, farmers who are able to do so pay the fines of able-bodied prisoners and put them to work on their plantations. But for this there would have been an increase in the number of misdemeanants on the registers. The ingenuousness of the explanation will be noted.

Misdemeanants are also worked by many of the counties in Georgia, and we refer again to the article by Mr. Clarke, in which it is stated that one recorder's court alone tries some 5000 annually, many of whom are sentenced to the chain gang for the most trivial offenses. The treatment meted out to them there may be summed up thus: They work on the roads from sunrise to sunset, wearing striped suits and with iron manacles around their ankles. Guards armed with rifles and shotguns stand over them, and there is always a whipping boss who uses a broad,

thick strap, more than three feet long and tapering. At night the men sleep on a straw mattress in a rough bunk, neither their clothes nor their fetters being removed. Moreover, they are all bound to a long chain, secured at either end to opposite sides of the stockade. We presume that there are those who cannot comprehend the hygienic bestiality and suffering that such arrangements must involve, but they must be singularly wanting in imagination. It may be doubted if there is another animal save man that would not rebel violently against such conditions.

The negroes outnumber the white men in Georgia by fifteen to one, but there are many white men on the chain gangs and their condition is described as most pitiable.

While the whip is in frequent use on the roads during the day, the beatings that follow the return to camp are said to be much more severe, the victim being stretched over an inclined support or lashed to a barrel. It may be remarked incidentally that the constitution of the state of Georgia expressly prohibits whipping as a punishment. It is a good illustration of the futility of laws when not enforced by public opinion.

The conditions sketched above are by no means peculiar to Georgia, although it was there that they first developed into a scandal of international proportions, for the situation has been much discussed in England and, doubtless, in other European countries.

Happily in Georgia public opinion finally took shape and asserted itself, largely on account of the disclosures made by a section of the press under the leadership of Mr. Fred L. Seely, owner and editor of

the *Georgian*, an Atlanta daily. As the result of their vigorous attacks on the convict lease system the penitentiary committee of the legislature of 1907-8 made an examination which, though hasty, showed that the entire arrangement reeked with cruelty and was honeycombed with corruption. Notwithstanding which it brought in a bill providing for another five-year lease, to be renewed automatically. A storm of protest followed, mass meetings were held throughout the state, and Gov. Smith allowed it to be understood that he would veto any bill that did not provide for the abolition of the system when the existing lease terminated. The senate upheld the governor, but the house still favored the old conditions, and the legislature adjourned in a deadlock. Thereupon the governor immediately called an extra session, at which the lease system was finally abolished, it being determined that the counties should divide among themselves the felony convicts, employing them on the public roads under a state supervision far stricter than that which had prevailed. Provision was made also for the purchase of state farms.

The revelations produced an impression so profound that it is not unreasonable to suppose that they will have brought not Georgia alone, but the entire South to a realization of the gravity of the problem, and the 1908 annual session of the American Prison Association, which was held in Richmond, Va., devoted considerable time to the discussion of this particular phase of the question. For the scandals exposed in Georgia started a train of investigation that covered almost the entire South, and especially Louisiana, Alabama, Mississippi, North Carolina, Tennessee and

Florida. We are inclined to think that the worst reports came from the mines and lumber camps of Florida, although where all is unspeakably atrocious it is difficult to award pre-eminence. The *Cosmopolitan* commissioned Mr. Richard Barry, who had made a brilliant record as a war correspondent at Port Arthur, to make inquiry, and he reported in March, 1907, under the heading "Slavery in the South To-day." We quote first from the editor's preface, as showing the mercenary forces at work, his statement being as follows:

"In a new and sinister guise slavery has again reared its hideous head, a monster suddenly emerging from the slimy, sordid depths of an inferno peopled by brutes and taskmasters in human semblance. Whites and blacks are today being held indiscriminately as chattel slaves, and the manacle, lash, bloodhound and bullet are teaching them submission without partiality to color. Like a galvanic shock it undermines our self-importance to find that the new form of slavery places white and black on a plane of perfect equality and enslaves both with generous disregard of ancestry or complexion. . . . The constitution of the United States prohibits slavery; every state constitution does the same; but now, at this very hour, an atrocious, bloodthirsty system of chattel slavery exists in many of our southern states. The Standard Oil company, H. M. Flagler's Florida East Railway company, the turpentine trust and other trusts have put in force a system of peonage which is actual slavery, and it is done under the legal sanction of state laws—not by direct laws, but by subterfuges

and circumventions which nevertheless attain the end in view."

It is notorious that many of the wealthiest families now living in the South have built their fortunes out of the conditions we are describing, and they held themselves above all vulgar prejudices as to race and color. Mr. Barry reported that he had found 3000 white men working as peons on railroad construction in North Carolina and Tennessee, and uncovered the fact that one New York employment agency was sending three hundred men a month into slavery in the turpentine camps. But prior to his investigations the scandal attending the convict camps of Florida had attained such proportions as to result in the conviction at Pensacola of five officers of the Jackson lumber company, who were sentenced to a term of seven years, Dec. 5, 1906. It was shown that the operators, having obtained men from the New York employment agencies, held them to their work by threats, intimidated them with firearms, and, when they endeavored to escape, chased them with bloodhounds. Nevertheless certain of them managed to give their captors the slip, among them being a relative of an old friend of Gov. Curtis of Massachusetts, who made his way to Boston and told a piteous tale. Three Jews, utterly broken down in health, crept into the offices of the Jewish Protection Society in Jacksonville and showed the livid scars caused by the whip. A dozen tramp immigrants ran away from the O'Hara camp at Buffalo Bluff and startled the inhabitants of Palatka with the story of their sufferings; and bit by bit the truth came out.



Among the photographs with which Mr. Barry illustrated the article previously referred to was one of a group of guards in a Florida camp, all of them obviously little more than lads. He himself tells us that these guards are often boys of 19, who flog from mere caprice, wearying of the monotony of camp life. He speaks in particular of one camp captain who made the tour twice a day, to learn from his subordinates what men were to be flogged.

It will have been observed that in the last two paragraphs the scope of our inquiry has been somewhat broadened, since it has included not only those actually convicted of crime, but confessedly innocent men, decoyed by false representations and thrown into the slavery imposed by the state on the criminals whose labor it hires out. The one dominant idea is to make money by developing the natural resources in the cheapest and most brutal manner, and how enormous are the profits that have been derived may be judged from the fact that at Jacksonville, Fla., in 1906, the state leased twelve hundred convicts to the firm of Barnes & Co., which was the sole bidder, at 57 cents a day per capita. Barnes & Co. sublet the contract to S. A. Rawles of Ocala, who in his turn sublet to various operators, and claimed that he made a profit of \$100,000 by the transaction. The operators pay on an average from 85 to 95 cents a day, and the difference between these figures and the 57 cents given as the auction price is official graft. The general course is described thus by one authority: "The operator goes to the deputy sheriff, whose close confederate is the justice of the peace. Neither has



an income outside of his fees. Together they can railroad into the convict camps almost any one they choose."

That this last is a method of procedure by no means confined to the South we shall demonstrate amply when we come to a consideration of the fee system, under which the income of constables and other officials depends exclusively on the number of men whom they arrest. Meanwhile a conception of the ease with which men entirely innocent may be railroaded to a southern convict camp may be gained by a perusal of the following affidavit made by a deputy sheriff of Florala, Alabama, in which he says: "The state or county pays me nothing. I make between \$5000 and \$7000 a year. This is in reward for negroes who are needed to work. I can take up anybody on suspicion." From what has preceded it is evident that white men as well as negroes fall into the net.

Here is a comment on the convict camp system of another state, Mississippi, by one of its most noted attorneys: "This institution is operated for no other purpose than to make money, and I can compare it with nothing but Dante's Inferno. Hades is a paradise compared with the convict camps of Mississippi. If an able-bodied young man sent to one of these camps for sixty or ninety days lives to return home he is fit for nothing the rest of his natural life, for he is a physical wreck at the expiration of his term." And a former governor of Kentucky thus sums up the situation in his state: "Possession of the convict's person is an opportunity for the state to make money. The amount to be made is whatever can be

wrung from him, without regard to moral or mortal consequences. The penitentiary which shows the largest cash balance paid into the state treasury is the best penitentiary. In the main the notion is clearly set forth and followed that a convict, whether pilferer or murderer, man, woman or child, has almost no human right that the state is bound to be at any expense to protect."

Such is the penal system of the South today; an irresponsible despotism of the most savage type. If deterrence were capable of keeping men within the paths of virtue surely the South should be virtuous. Unhappily the statistics to be examined shortly will tell another story. It is always so. Fearful crime and fearful punishment always have gone hand in hand; a truth of which the Roman empire in its decay and the entire history of Asia afford overwhelming proof.

## CHAPTER VII.

### BREAKING THE WILL

In the last four chapters we have shown the philosophy of deterrence at work in the penal institutions of four great states — Illinois, Ohio, Texas and California — and in the convict camps of the South. It would have been easy to have added to the number of these demonstrations, taking, for example, the Missouri penitentiary at Jefferson City, which has been freely exploited by the press, the Oregon penitentiary at Salem, Sing Sing in New York, or the awful conditions in the Kansas state penitentiary at Lansing, which Miss Kate Barnard, State Commissioner of Charities of Oklahoma, exposed so ruthlessly. Our object, however, is not to pile up horrors, but to show that this country has followed the policy of deterrence with absolute mercilessness. The recital we have been compelled to make has run the entire gamut of brutality, culminating in habitual torture and not infrequent murder. If, therefore, this country is still confronted by a constantly increasing volume of crime it is clearly not because we have made the path of the criminal one of roses.

We pause, however, at this stage of our argument to put a question that must occur to all who have followed us thus far, viz.: "Why should there be all this brutality, and, above all, why this constant torture?" When we read of torture we think instinctively of China, of Asiatic despotism, of the Spanish Inquisition, of times and places altogether apart from our Anglo-Saxon civilization and the twentieth century. The

average man of today cannot imagine himself chaining helpless creatures down in tubs, racking them with electricity and choking them well nigh to death with streams of water; to say nothing of whipping them for trivial offenses until their shoes are full of blood. We grow indignant when we hear of some ignorant Italian unduly beating his horse, and if we knew of any private citizen who had done to an enemy one fraction of the deviltries to which convicts are subjected we should be not unlikely to propose a lynching party. The keepers of a menagerie caught torturing their helpless animals would be mobbed.

Yet the convict in his prison is as helpless as any captive animal. He is brought to the penitentiary shackled. He is put into a cell as secure as any used for the confinement of the wildest beasts. He emerges from this only to work and eat; and at every step, at every moment throughout the day, he is flanked and watched by guards armed to the teeth, while over all frown incessantly the Gatling guns. Is he not as helpless as the caged lion? Then why this constant punishment and torture?

Of course, in the first place, the public does not know. No secrets have been guarded so carefully and long as those of the prison, and it is only now that we are beginning to get an inkling of the tragedies that are enacted behind those gloomy walls. Literature on this subject has been hitherto practically non-existent, and even today, when light is creeping in, the task of gathering the needed materials is one of exceptional difficulty. For those who know by actual experience form a class so discredited that they have been unable to win a hearing, and in the vast majority of cases they have not the literary ability which is required to

catch the ear of a busy public. Moreover, as a class, they live in terror of the vengeance that may be visited on them by the authorities whom they accuse, and their one absorbing desire is to conceal from the world the fact that they have worn the stripes.

Furthermore it must be admitted that the public is not naturally sympathetic toward the convict, having an inherent dread of deeds of violence, despite its admiration for the soldier, and a strong prejudice against the thief, although it still worships "high finance." But, above all, it has been educated stndiously to the dogma that convicts are intrinsically turbulent and dangerous. We believe that this last is a profound delusion, and, having quoted freely already from Col. Griffith's experiences in San Quentin, we now ask consideration for what others, who also know, have to say upon this point. The first witness we select is the author of "Life in Sing Sing", a work that has all the earmarks of strict impartiality. The writer was a man of good education and founded the well-known Sing Sing paper, the *Star of Hope*. Here is what he says:

"It is generally thought that the inmates of a prison are a body of lawless men, whose restraint is a matter of the most serious physical effort; that they are always seething with rebellion and ready to break out in open revolt at the slightest provocation or at the first moment of relaxed discipline or watchfulness. So far opposed to the truth is this that for general orderliness, quietness and docility, there isn't a university in the country that compares favorably with Sing Sing in this respect. Nor is it, as you might fancy, because the measures taken to produce that condition are effective. There isn't a tamer man in the world

than the average convict, and his behavior is good in spite of the conditions which surround him, not because of them. Whenever he breaks out against discipline or offers violent opposition to the rules it is, if not invariably, in nine cases out of ten the fault of administration." And again, criticising the average prisoner, he says: "The convicts are industrious, generally because they are of active temperament. They are not quarrelsome, or mischief-makers or unqualified liars, as a rule, because they don't see the use of it. Among the more ignorant profanity and ribald speech prevail, but they even grow out of this and make very creditable attempts at certain small decencies. Keep them away from something to steal, and they form rather a hopeful lot, evincing unsuspected virtues."

They certainly don't get much opportunity to steal. That is a perquisite peculiar to the officials, and guarded with the most wakeful jealousy. It is called, however, "graft", and in the very chapter just quoted from the same author says: "After a man has been a prison officer for a little time he loses his perception of ownership, and particularly of that which is owned by the state. He is not sure whether anything is his or belongs to the department, but the inclination of his belief is that it is his. If the article considered is small enough to carry away there is no doubt about it, it is his, although the fact that it is not easily removed doesn't affect unfavorably this decision. There are old officers in Sing Sing prison, living in rented houses in the village which they have furnished with tables, chairs, bedsteads, cutlery and tinware from the prison; the soap with which their weekly washing is done is similarly obtained, and the oil which they burn is sup-



plied in the same way. It doesn't make any difference what it is, they will and do take it. Bread from the prison bakery, meat for their dogs from the convict table, if it isn't good enough to eat themselves, pens, paper, pencils, anything and everything; and the whole system of checks, being largely in the hands of convict clerks, is, of course, utterly useless in stopping these predatory abuses." He adds that "you will find the prison officers virtuously indignant at the issuance of an order that cuts them off from what they regard as their share of the graft."

Let us not delude ourselves with the thought that such conditions are peculiar to Sing Sing; with modifications they are well-nigh universal, as every intelligent convict knows, but the evidence is never to be found on the books. And we have touched on this question that the reader may reflect on the education in justice furnished by the state to its temporary wards who find themselves punished, and often with unspeakable cruelty, for the infraction of the pettiest rules by men whom they themselves regard as chronic thieves.

Let us turn to another work that, by its force and obvious mastery of detail, made, in 1908, an immense impression on the public. In "9009" Messrs. Hopper and Bechdolt have given to the world what is probably the most realistic picture yet published of life in a penitentiary. The development of John Collins' character turns almost entirely on his desperate efforts to follow the sheriff's advice — "Keep to yourself and hang on to your good time; hang on to your copper." This is his description of his first night in the cell:

"He remained silent, bent over, thinking, a long time. And then, solemnly, almost with affection, 'My copper', he said softly. He would work for it, he would treasure it, his good time, his copper. There were rules in this place; he would keep them. There was work; he would work. He remembered the words of the garotter and of the sheriff; he would keep to himself, he would obey, he would do anything they told him. 'Oh, I'll be good', he said aloud, whimsically; 'I'll be good, all right.'" And as you follow the unfolding of the plot you see how a single guard was able to make that fixed resolution impossible of fulfillment.

You may say this is fiction, but realistic fiction, written by men of talent who have made a special study of their subject, often gives the most accurate of pictures. And in the absence of direct evidence to the contrary all common sense will teach us that the utterly helpless convict is not likely to rebel, but is most likely to use every effort to obtain the good marks that will shorten materially the term of his imprisonment.

It is the tendency of all power to encroach on the rights of the individual and, by multiplication of rules, magnify its office. The more helpless the individual and the more ignorant the mistrained official the more pronounced will be this tendency. Of this prison life affords the most glaring illustration, for time hangs heavy and the devising of new regulations gives an outlet for pent-up energies. Barry, who was sent by the *Cosmopolitan* to investigate the southern convict camps, found guards who flogged as a relief to the monotony of their uneventful life. Had he investi-

gated certain of our penitentiaries he might have made similar comment.

A convict innocently passes to another a piece of bread and he is severely "paddled". Another proposes to exchange his tobacco, for which he has no use, for a chair of which he stands in need, and it is treated as a high offense.

And so one could go through the history of prison after prison, finding labyrinths of petty regulations invented to give excuse for punishment, deprive the men of the "good time" to which they are entitled and prolong the term during which they must be supported out of the pockets of the public.

There is, however, one good reason for this multiplication of rules — rules so childishly ridiculous that they should be whirled out of court with a Gargantuan peal of laughter. It is expressed in rough but straight language by the author of "Thirteen Years in the Oregon penitentiary", as follows: "Now I will give a little sidelight on the prison politician and prison politics. The prison politicians are the guards, and they are all the time scheming and plotting and planning how they can hold their jobs. The first thing they will tell a visitor is what a hard lot of men they have to deal with. They will tell visitors that the life of a guard is constantly in danger, and that they practically carry their life in their hands. Did the visitor ever stop and take time to think that if he himself was a convict the prison politicians would be telling some other visitor the same thing about him? The prison politicians want the governor and superintendent to believe that the convicts are a bad lot, so the guards will have the run of the penitentiary to suit themselves and so the governor will take no notice of what a con-

vict says when he makes his complaint." We submit the passage as it stands to the common sense of our readers.

Lest it be thought that we are over-stating the case we submit a recent extract from the voluminous rules in force, not in a state institution, but in the United States penitentiary at Fort Leavenworth, Kansas, under the management of an advanced prison reformer, Maj. R. W. McClaghrey, who, of course, must be regarded as the mere administrator of a system he had no hand in creating. The extract deals only with discipline at meals, but the reader who cannot form a mental picture of the scene implied must be indeed lacking in imagination.

"12. On entering the dining-room take your seat promptly—position erect—arms folded, with eyes to the front until the signal is given to commence eating.

"13. Strict silence must be observed during the meal. Staring at visitors, talking and laughing, fooling or gazing about the room are strictly forbidden.

"14. Eating or drinking before or after the bell sounds, using vinegar in your drinking water, or putting meat on the table are prohibited.

"15. Should you desire additional food, make your wants known to the waiters in the following manner: If you want bread, hold up your right hand; coffee or water, hold up your cup; meat, hold up your fork; soup, hold up your spoon; vegetables, hold up your knife. If you desire to speak to an officer about food or service in the dining hall, hold up your left hand. Wasting food in any form will not be tolerated. You must not ask for or allow the waiter to place more food on your plate than you can eat. When through

with meal leave pieces of bread on left side of plate. Crusts and small pieces of bread must not be left on your plate.

" 17. After finishing your meal place knife, fork and spoon on right side of plate. Sit erect, with arms folded. When the signal is given to arise, drop hands to your side. At the second signal march out and to your place in line in a prompt, quiet and orderly manner.

Men fight shy nowadays of enlisting in the army, the constant obedience to autocratic orders being alien to that larger freedom which a society gradually evolving from militarism has acquired. And it is proverbial that the discharged soldier is seldom capable of holding his own in other occupations, having acquired unconsciously the habit of waiting for the word of command, rather than of thinking for himself. But even with the soldier meal time is a period of jollity and relaxation. In the federal prison, as in other penitentiaries, men march to their meals under the shadow of guns and flanked by armed guards; devour their food in silence, and may think themselves lucky if they escape punishment for infraction of rules so minute that they constitute in themselves a reign of terror.

What is the object, and what is the net result of all these rules, these punishments and torturings? Simply to bring about the very condition that the most ordinary common sense should make us most anxious to avoid. Granted that the public takes little interest in the convict's conduct during detention, it is nevertheless deeply concerned as to his behavior after release. It hopes most sincerely that henceforth he will behave himself. When it stops to think it admits



freely that there are lions in the path; that the man will be without money, and with few, if any, friends; that his description will have been sent the police rounds, and that a small army of his fellow-beings will be professionally and financially interested in keeping close tab on him and taking advantage of his first fall from grace. But, on the other hand, the public considers that he must have learned a valuable lesson, and it fondly hopes that during the years of his imprisonment he may have acquired habits that will guide his feet safely in the paths of virtue. Profound delusion! Not merely have you been tutoring him in vice, but you have been insistently producing, day by day and hour by hour, that very condition of moral and physical helplessness which renders relapse into crime a certainty.

Consider what is wanted, what is truly indispensable, in this rough-and-tumble struggle for existence. If a man is to keep his head above the water he must be more than honest or well meaning; he must be capable. He is heavily handicapped if he has not some special occupation, but even if he has, other qualifications are essential. Without some capacity of self-assertion he most assuredly will be driven to the wall in the universal jostle. Not an hour will pass without calling on him for some exercise of will power; at every step he will be required to use his judgment and discriminate. Our civilization is, at least, partially free and men are expected to do things for themselves.

In reality how have we fitted the discharged convict to face the most terrifying problem that can confront a human being — that of the marked Ishmaelite, without money and without a job? Have we taught him



a money-making trade? In very, very few cases, for, rightly or wrongly, organized labor has objected strongly to his being employed in the production of goods that are likely to come into competition with its own output. Consequently the convict is employed at unskilled occupations or at such as give him no training whatever for the work he must take up when he regains his freedom. And even these useless tasks he performs, as he devours his meals, in silence, with armed men over him and under the orders of keepers who can at any moment inflict practically what punishment they please. Every minute of his waking hours he is the subject of autocratic commands. Then, with a will thus paralyzed, a body weakened by confinement and bad food, and in utter ignorance of what has been transpiring in the outside world during his term of immurement, he is turned out to hold his own in the battle for bread.

Tie up a man's arm for a year and it becomes useless. Tie up a man's will for a similar period and it degenerates to the mere shadow of its former self. Yet the entire scheme of prison management, as it has been hitherto and is today with a few enlightened exceptions, has massed itself on the attainment of one point — the breaking of the inmate's will. On this all the discipline, the despotic powers conferred on officials, the punishment and the tortures center. "You", cried the irate warden to a prisoner before him on some trivial offense, "you, damn you! You have a will of your own. Well, I'll have no wills here except my own. I'll tame you, damn you, I'll tame you. If you were a tiger I'd tame you." And he adds: "They did tame him, and he wasn't very wild, so

far as I could see; and when they had him really tamed he was in Dannemora insane asylum, where he will die a raging maniac." We quote again from "Life in Sing Sing", although conditions there have been mild as compared with those which have prevailed in many southern and western penitentiaries.

All corporal punishment has the effect of subjecting the individual to intense humiliation, thereby lowering his self-respect and robbing him of self-confidence. We submit the following passage from "Facts About Flogging", by Joseph Collinson, secretary of the Criminal Law and Prison Commission, Humanitarian League (England) as full of suggestion: "The lashed and hacked prisoner has no future. He is no longer a man; he has been degraded to a brute, and for the rest of his life alternates between ticket-of-leave and prison. He is alive and yet dead. When you have broken the spirit of a criminal, lacerated his flesh as far as human endurance is possible (gauged by the medical men in attendance), be sure of one thing: You will have to support that man, in and out of prison, for the rest of his life. Let the advocates of the 'cat' note that fact. To lacerate and smash up, morally and physically, the criminal is — apart from all questions of humanity — a somewhat expensive luxury for the already overburdened people of this country."

Nevertheless in the Missouri state penitentiary at Jefferson City the whipping post is resorted to constantly for the disciplining of refractory prisoners, and the warden vehemently defends its use. In *Hampton's Magazine* for October, 1909, Charles Edward Russell quotes him as follows: "In my opin-

ion, it is absolutely necessary. You cannot manage 2000 men of the character of our convicts without corporal punishment. Some men cannot be governed by kindness and recognize only the power of a blow; if we used milk-and-water methods we should have a mutiny every week. I do not know of any punishment more effectual than the whipping post. If you have a bad man you must conquer him, and if society objects to the means employed, society should bear in mind the character of the convict."

Mr. Russell describes the floggings, and adds reflections that, according to our view, aptly summarize the general situation. He says: "At the whipping post in this prison the victim is fastened to a wooden pillar, his hands and feet are manacled and the lash is applied to his bare back. The prison officers say that the number of lashes does not exceed fifteen and that the whip is used only when solitary confinement fails to subdue the convict. It sounds to the last degree barbarous and horrible, but I do not know that it is worse than the sanded paddle of Columbus, and probably it is not so painful or dangerous as the water cure. As the old guard said, 'It brings them round'. But do you suppose a man can be beaten like this and not be imbruted? According to the old theory of the prison the infinite degradation that pertains to all these things, to whippings, beatings, bull rings, and water cures, is of no moment because the dominating purpose is to inflict upon the wrongdoer all possible pain and to take the chances as to the results. If the pain and the degradation fill his heart with a fierce sense of injustice and a burning desire for revenge upon all society, no matter; and if we steal his labor



### THE WHIPPING POST.

Flogging is still a frequent form of "discipline." The warden of Jefferson City, Mo., penitentiary strongly advocates it.  
See page 141.

and so teach him the handiest method of revenge, no matter; and if we harden him until he becomes insensible to everything but his revenge, no matter. The great thing is to cause him pain. That is it — pain; he has stumbled in the path and now we must cause him pain.”

It may be added that contract labor prevails at Jefferson City, the convicts being farmed out to contractors at sixty cents a day. Such arrangements invariably lead to gross over-work and cruel punishment.

In short, prison regime as it exists almost universally today has for its prime object not the development of the latent powers of man, who is the triumph of all evolution, but his reduction to the primitive type of invertebrate mollusc — a crime against nature so colossal that language is incapable of supplying the terms that will enable us to measure it. And so thoroughly is this deadly work performed — under the teachings of the deterrent philosophy — that those who have had experience in aiding discharged convicts will tell you they are often so unstrung and bewildered by the roar and bustle of the great industrial centers, to which they return in search of work, that they scarcely dare to venture across the street unaided. No wonder they relapse into crime, as the easiest way of preserving life, and remain permanent public charges,

The problem of crime is to a large extent the problem of helplessness, and, poisoned by the fallacies of our deterrent philosophy, our prison system is a gigantic conspiracy to emphasize the very evil that lies at the root of this huge social trouble.

## CHAPTER VIII.

### DETERRENCE BY THE POLICE

The policy of deterrence is by no means confined to disciplining, punishing and torturing the convicted prisoner. It permeates the entire attitude of the police toward crime, actual or suspected, and indeed their attitude toward the population at large, whose servants they are supposed to be. It is with this phase of the philosophy of deterrence that the present chapter will deal. We shall consider here, in particular, the subjects of illegal arrests, the administration of the "third degree" and other arbitrary acts defended by many of the conservative on the plea that they tend to make the way of the transgressor hard.

Reference was made in the first chapter of this book to an article on "The London police from a New York point of view", by William McAdoo, former police commissioner for the city of New York. His comments and conclusions are in accord with much that has been written elsewhere, and his article is selected for notice simply because he writes with the authority of an expert and is obviously anxious to avoid unjust reflections on the New York force with which his own career had been so intimately connected. Nevertheless we venture the assertion that no American can read the comparisons he draws without feeling that they are greatly to the credit of the London police and enormously to the discredit of those in New York.



After stating that the London policeman's character for honesty stands unquestioned even by the professional criminal class Mr. McAdoo proceeds to a consideration of the London police courts, which evidently made a deep impression on him. He notes the care with which defendants are cautioned as to their legal rights, and tells us that he was "very much astonished at the outcome of the day's work; to see the number of acquittals, where, I am sure, in New York the same people would have been convicted. In other words, the benefit of the reasonable doubt was always scrupulously given in such cases, even where the defendant had a grim criminal record, and the sentences dealt out were a great deal less severe than in New York; but I was told that they were certain, that delays and appeals were almost unknown, and that in almost every case the sentence of the court would be confirmed on appeal, if allowed as a matter of grace." He adds that "the police did not grumble when the defendants were acquitted, and no side remarks of any kind were indulged in", and he concludes with the following reflections which seem to us worthy of careful consideration:

"A number of mysterious crimes, it is true, go undetected in London as in New York, and there are plenty of professional criminals in both cities, with this exception, that in New York the carrying of pistols and other deadly weapons is far more common than in any city in Europe. The general detective idea in Scotland Yard in a given case is quite similar to that prevailing here, except that Scotland Yard has sole control of the case and district authorities do not clash with them; and also with the strong exception

that the methods used in New York would not be tolerated for a moment under law as enforced there in the case of forcible entrance into houses, wholesale arrests on suspicion, the so-called 'third degree' and photographing before conviction, together with the use of violence on the person, except in strict self-defense."

Mr. McAdoo was greatly struck with the fact that in London the police are confined strictly to the legal limits of their authority, and particularly in the matter of free speech and assembly, his remark on that head being that "the whole policy, as far as London is concerned, seems to be to induce rather than to suppress free speech". He sums up the situation in London thus: "I should say, however, on the whole, that as regards gambling, the social evil, places licensed for the sale of drink, and the freedom of the people on the streets, parks and other public places, there is a very large degree of personal liberty, and the security of the citizen and his home are most carefully and rigorously guarded by the law. . . . This regard for the security of persons is shown in the treatment of prisoners arrested by the police. A wounded prisoner puts the policeman on the defensive."

We desire specially to emphasize the last two sentences in connection with the subject of illegal arrests, and to compare Mr. McAdoo's summary of conditions in London with the criticism passed on the New York police by another former New York City police commissioner in an article published in the *North American Review*, to which also we referred in the first chapter of this book. Mr. Moss wrote shortly after

the Lexow investigation had disclosed an appalling mass of corruption, and, after showing how vast was the system of blackmail and extortion that had been uncovered, he uses these words as descriptive of the brutal and illegal methods in use: "For three years there has been through the courts and the streets a dreary procession of citizens with broken heads and bruised bodies, against few of whom was violence needed to effect an arrest. Many of them had done nothing to deserve arrest. In a majority of such cases no complaint is made. If the victim complains his charge is generally dismissed. The police are practically above the law."

That these conditions are not peculiar to New York alone is notorious, and we cite the case of Chicago, the second largest city in the country, using the figures given in his "Live Questions" by the late John P. Altgeld, formerly governor of Illinois. As the result of a careful statistical investigation of criminal conditions in Chicago he states that in 1888 the police arrested and carried to the lock-up 50,432 persons, nearly 9000 of whom were under twenty years of age and a little over 30,000 of whom were American born. He shows further that nearly one-third of the number were discharged, it not being proved that they had violated any law or ordinance, and that, out of the whole number arrested, only 2192 were held over on criminal charges. Only 2192 held over out of a total of 50,432 arrests!

Commenting on the above figures Mr. Altgeld asks: "Bearing in mind that those arrested were young; that they came from the poorer classes, from those who are already fighting an unequal fight in the

struggle for existence, I ask you what effect do you suppose the act of arresting them upon the street, possibly clubbing them, then marching them to the lock-up and shoving them into a cell—what effect did all this have upon the 15,000 who were not shown to have been guilty of any offense; who had violated neither law of God nor statutes of man?"

As a rule our quotations are drawn from the most recent writings, but in this case we have gone back twenty-one years because the figures given by Gov. Altgeld were compiled with special care, and Chicago still has the reputation of pursuing remorselessly the policy of deterrence, although a decidedly mitigating influence has been introduced of late by the methods introduced in the municipal court by Judge Cleland, to which we shall do full justice in a later chapter. That the deterrent policy has been barren of results is shown by a recent statement made by the city attorney to the effect that a burglary was committed within the city limits every three hours, a hold-up every six hours, while every day brought forth its murder and suicide—an appalling record!

What a glaring light is thrown on this subject of illegal arrests by the following exclusive dispatch which we clip from the *Los Angeles Times* of Feb. 19, 1909! "KANSAS CITY, Feb. 19.—A census of the county jail, completed today under instructions of Judge Latchaw, shows seventy-six prisoners who had become lost to the world. There are absolutely no charges or informations on file against any of these men, twenty of whom have been in confinement from four to eight months. One prisoner, Edward Wangan of Pittsburgh, had been forgotten for thirteen

months. Wangaman pleaded guilty to a minor charge thirteen months ago, but sentence was never imposed upon him. Wangaman says that Judge Wallace told him he would release him on parole if he would give bond. The prisoner had no friends."

As against these methods let us place the statement of the chief of police of Cleveland, O., Frederick Kohler, made at the convention of chiefs of police in June, 1909. Mr. Kohler told his colleagues that, as a result of the "golden-rule" plan he started less than two years ago, the 1908 record showed 20,333 less arrests than did that of 1907; surely an eloquent comment on the sum of unnecessary apprehensions made under the previous administration! He further gives as among the six rules he drew up for the guidance of his force these—that officers were to use their kindly efforts in easing the friction and ill-temper between man and man, wherever and whenever it made itself manifest; and that he who managed the offender with the least display of authority would be considered the best officer. Which is, in fact, the tradition that governs the entire London police force.

It is beyond all question, therefore, that throughout the United States there is an immense amount of arresting for which no adequate reason can be shown, and when we pass to a consideration of the fee system we shall show that the very livelihood of a large number of officers of the law depends on the number they can drag to jail—a system that has as its natural echo the fact that with far too many chiefs of police the merit of their subordinates is gauged by the activity exhibited in effecting arrests. Inevitably this



must lead to the use of greater and greater license on the part of the police; and this license is now beginning to be seriously questioned.

As one of the results of the Lexow investigation New York showed itself greatly concerned on the subject of illegal arrests, and there was much discussion as to the actual powers conferred on the police. The statement of Sir James Fitz-James Stephen, one of the ablest jurists England has produced—but as a judge far from lenient toward criminals—was generally accepted by lawyers as giving the rule for the police in this country, as throughout the British empire. It is as follows: “The police in their different grades are no doubt officers appointed by the law for the purpose of arresting criminals, but they possess for this purpose no powers which are not also possessed by private persons. A policeman has no other right as to asking questions or compelling the attendance of witnesses than a private person has.” And while this discussion was in progress Justice William J. Gaynor, recently elected mayor of New York, but then of the supreme court of the state of New York, published in the *North American Review*—in 1903—an article on “Lawlessness of the Police in New York”, in the course of which he said: “One recent instance suffices to show the false idea of the right and power to arrest and imprison without a warrant which exists in the police department of the city of New York. In October last a police captain came into a magistrate’s court with a large batch of prisoners, whom he had arrested and locked up over night without warrant. He told the magistrate that he wanted them all committed to prison until after



election. The magistrate asked what charge of a criminal offense he made against them, and the response was that he made none, but that he feared they would register and vote if not locked up. Being asked if there was anyone to make any charge against them, he said 'No.' The magistrate said that he had no right to commit any one except on a charge of some criminal offense made on oath, and discharged the prisoners. Can any one imagine such an occurrence in England, or, for that matter, anywhere outside of the city of New York?"

It must not be forgotten that New York is the second largest city in the world, and that examples set there are quickly followed by the authorities in less important centers.

The high-handed methods of the New York police have been made again, and within the past few months, the subject of Justice Gaynor's attack, the rupture between Police Commissioner Bingham and Mayor McLellan, which led to the former's sudden removal from office, having followed charges made by Mr. Gaynor, who insisted on the removal of George Duffy's picture from the rogue's gallery, alleging that the boy was being hounded by the police and that he had not been proved guilty of any offense. It may be noted that Mr. McAdoo made a special note of the fact that photographing before conviction was prohibited in London. But for the moment we leave New York and pass to other sections of the country, recent events having caused widespread criticism of the police both in the matter of making arrests and their treatment of the arrested.

In Los Angeles, where these lines are written, as recently as July, 1909, complaints that defenseless prisoners in the city jail were "man-handled" and otherwise ill-treated drew from the chief of police an assurance that such methods and the administration of the "third degree" would not be permitted; but the persecution to which Mrs. Laura Sim, wrongfully suspected of having tried to murder Mrs. Staehle, claims to have been subjected discounts considerably the worth of that assurance. According to her statement, published October 22, 1909, she was arrested Tuesday afternoon, searched, her watch and all her belongings taken from her, thrown into a dark cell and left there until the following afternoon, when she was taken again to the detectives' office. Her account continues: "They said, 'Well, if this woman dies you can just feel the noose around your neck. In any case we've got you and we're going to send you up for this.' No matter how many times they asked me to repeat my story I did not change. They said the prints on the window were the same as mine. I reached out my hands and said: 'Here, take as many imprints as you like. These hands are clean of crime.' They called up some one on the 'phone, and then said that my imprints had been found to be exactly the same as those on the window. When they saw that I did not falter they accused me of caring for Mr. Staehle. They were absolutely devoted to each other and it did my heart good to see it. They accused me of intimacy with Mr. Staehle. I said, 'No. I am a lady and until you can prove me other than one you will please treat me as such.' Thursday afternoon they took all kinds of imprints of my hand

with ink, with powder and with a black powder. They accused me over and over of stabbing my friend. They again accused me of intimacy with Mr. Staehle. . . . When they found they could not shake my story they released me. It was about 5 o'clock Thursday evening. They said: 'We have conducted this case as carefully and as delicately as we could. We do not want you to be put to any unnecessary notoriety. There is a crowd of newspaper men outside. Walk between us and duck your head, so that they cannot get your picture.'"

For a full and earnest discussion of the entire question, however, one cannot go to a better place than St. Louis, Mo. There the efforts of the police to obtain from a stenographer information as to the whereabouts of her employer, who had absconded, aroused a storm of protest. The *St. Louis Post-Dispatch*, the *Republic*, the *Mirror*, former Governor Johnson and others expressed themselves with great vigor, and as Mr. Johnson has been for some fifty years one of the most noted criminal lawyers in the west we quote him at some length, his review of the situation being at once forcible and exhaustive. He says:

"It is not going beyond the domain of exact truth to assert that no ordinary citizen without position, political influence or wealth is safe from an infringement of his rights if he unfortunately falls under the suspicion of the police. In such a case he is lucky if he escapes alone with a deprivation of his liberty, and is not subjected to humiliation, degradation, insult and assault. The principal individual rights guaranteed by the constitution and the laws, both state and national, are not possessed by the mass of the

people of our city, and the deprivation is through an usurped authority of the police department, without right or reason." And he adds:

"One day's visit to the courts will overwhelmingly prove the charges made above. A morning paper says: 'More than half a hundred men who sweltered in the cells of station houses during Sunday, one of the most humid days of the summer, were adjudged innocent of wrongdoing when haled into police court Monday.' Again: 'There were 102 cases on the Clark avenue police court docket Monday. Of this number only sixteen convictions were recorded.' And this for one day, and about one hundred falsely arrested credited to the police department! An examination of the testimony in these cases will show that there was not a particle of testimony to warrant these arrests. It will show the most tyrannical abuse of power in the officers making the arrests, and a heartless disregard of the plainest dictates of humanity in unnecessarily shutting them up like negroes in the hold of a slave ship with the thermometer at 90. Frequently in what is called the 'round-up' of certain localities, a swarm of detectives go forth and indiscriminately arrest persons and are at a loss to know what charge to put against them; it usually ends with the entry, 'Held for the chief', or 'Idling'."

Passing to a consideration of the "third degree" the former governor of Missouri expresses himself in the following forceful language: "Note some of their official methods: They arrest citizens upon bare suspicion, and on the flimsiest hearsay evidence or at the dictum of their chief. The law-prescribing warrant, in certain cases, is entirely ignored. They in-

vade the sanctity of the home and drag the innocent, male and female, at unseasonable hours of the night to the prison. But the principal outrages perpetrated by them occur after arrests and commitment to the cells of the hold-over. The occupant of the hold-over is a person against whom no formal charge is made.

"The arrested party, if suspected of complicity in a crime or thought to have knowledge of others implicated therein, is frequently brought forth and in the presence of members of the force is put on the rack of a series of the most ingenious questions, in fact, a searching cross-examination. When one official becomes wearied another takes it up, in the effort to entrap the victim into inculpatory statements. They are bent on obtaining a confession from him. He may be innocent; they consider him guilty. The more the accused insists on his innocence the more fiercely insistent his examiners become. He is bullied, browbeaten, insulted, called foul names, and if especially obdurate and irritating to his tormentors, he is cuffed and beaten. In administering the last indignity in various cities the favorite weapon is a hard piece of rubber hose. It bruises and leaves no tell-tale lacerated flesh. This ordeal for the accused, in the vulgar language of the force, is called 'sweating'."

The *St. Louis Mirror* (William Marion Reedy, editor), a weekly of established reputation in the literary world, summed up the whole case in an article so trenchant that we reproduce it in part, as follows:

"The issue is not local. The police of every big city torture prisoners to extort information from them

to be used against themselves or others. The police say they do these things only to the professional criminal. The answer is not good. The police have no right to abuse a man or woman who is a criminal. Even the criminal has rights. He cannot be deprived of life, liberty or property, except by due process of law. He cannot be compelled to testify against himself. In England, when a policeman arrests a man, he warns the prisoner that anything he may say will be used against him. This is supposed to be a freer country than England, yet, as soon as a man is arrested here, he is subjected to an inquisition under threats and often to the accompaniment of kicks and cuffs. The police have no authority to question under torture or otherwise. The only authority to question rests in the court in which the prisoner is tried. The police proceed upon a theory the exact opposite of that of the law. They believe every man guilty until he is proven innocent. They punish him without trial. They act as judge, jury and executioner. And they are the more ruthless the more helpless the person falling into their hands. Police methods make criminals worse than they would naturally be. We read of city roughs who 'hate the law', and we think it just natural cussedness. We are wrong. Those men do not hate the law. They hate the police who abuse and maltreat them every time they are arrested. They are clubbed and drubbed on the street and in the calaboose. Their arms are twisted until they 'talk', or they are denied food and drink."

The storm in St. Louis came almost simultaneously with the frank avowal that torture has been applied to a Chinaman in New York, in an effort to wring



from him the confession that he had murdered Miss Sigel. It was proved eventually that he was not the man the police had supposed him to be, and that he had not been near the scene of murder. The course pursued by the police gave rise to international comment, and we quote from the London *Spectator*, a weekly of the very highest character. After remarking that the "third degree" is nothing more or less than the revival of the rack and the thumb-screw in judicial investigations, the writer continues: "Enough has been seen of the 'third degree' to make it probable that every respectable American will wish to have it abolished on the ground that it conflicts with common sense as much as with humanity. Torture never did, and never can, prove anything. History has shown that the tenacity, even the callousness, of victims in resisting torture equaled the ingenuity and persistence of the tormentors. Resistance proves as little as surrender. Religious devotees, the professors of shining and heroic faith, should have a dignified history of torture to themselves, for their resolution is a thing apart. If there is a source of endurance more splendid than religious faith it is surely the unwillingness of a man to betray his friends. . . . We venture to hope that the latest experience of the 'third degree' in New York, which seems considerably to outrun the vices of 'reconstructing the crime' in France, and which, after all, is only the newest kind of way of doing the oldest kind of wrong, will cause every one to see that it is removed a great many more than three degrees from usefulness and decency."

We think it safe to say that the passage represents the sentiments of most members of the Anglo-Saxon

race, and that such a general sentiment represents a force which a nation with honorable ambitions cannot afford to ignore. At this moment much effort is evidently being expended on the attempt to show that the "third degree" is by no means as bad as it has been painted, and we have before us, under date of September 5, 1909, a syndicate letter reproduced in the great Sunday dailies in which it is shown that, originating with Thomas Byrnes, police inspector of New York, in the Hanier murder case, it has been successful in producing important confessions and bringing to the electric chair those who otherwise would have escaped justice. Against which we set the following sentence from Justice Gaynor: "Crimes and vices are evils to the community; but it behooves a free people never to forget that they have more to fear from the growth of the one vice of arbitrary power in government than from all other vices and crimes combined. It debases everybody and brings in its train all of the vices." If historic proof of this vital truth is needed let the reader study Lecky's "History of European morals" — an admittedly standard work. And none who has given thought to the matter will deny that the distinction between a free government and a despotism is precisely this, that under the former each man is a law unto himself until he invades the rights of others, and that under the latter the property, the liberty and even the life of the individual may be taken at the caprice of authority.

That the publicity given to this matter recently will result in its being brought to the immediate attention of the legal fraternity would seem to be assured by

the appearance of an article in the October, 1909, issue of *Bench and Bar*, from which we quote freely. After stating that Prof. Wigmore cites instances of torture in Scotland as late as 1690, and declaring that on the continent the practice continued until a much more recent period, while some use was made of torture in this country during early colonial days, the article continues:

“The ‘third degree’ — a term adopted from Free Masonry — shows a savage survival. There is little difference between it and the methods employed in the dim past. For example, in a Texas case, in 1906, the defendant’s confession of the charge of burglary was obtained after a rope had been placed around his neck and drawn up sufficiently to choke him. This confession was admitted in evidence on the trial, but the Texas court of criminal appeals reversed the conviction, saying: ‘The cruelty manifested on the part of the officers toward defendant has not been surpassed since the days of the Spanish Inquisition. Any officer engaged in, or permitting, such barbarity, should be impeached.’

“In Mississippi, not long ago, a conviction was reversed because what was referred to as a ‘sweat-box’ confession had been admitted in evidence. The ‘sweat-box,’ it was made to appear, was a compartment about five or six feet by eight, entirely dark, and all cracks were ‘carefully blanketed,’ to shut out light and air. The prisoner was allowed no communication with the outside world, and from time to time the officer who had put him in this dungeon interrogated the prisoner about the crime with which he was charged, although holding out no inducements

and making no threats of the kind which commonly vitiate confessions.

“Commenting on this practice, the court said: ‘Such proceedings as this record discloses cannot be too strongly denounced. They violate every principle of law, reason, humanity, and personal right. They restore the barbarity of ancient and medieval methods. They obstruct, instead of advance, the proper ascertainment of truth.’

“In a Louisiana case, however, the court rejected statements made by prisoners charged with burglary, who had been heavily handcuffed, kept in separate cells and ‘repeatedly interrogated and plied by their keepers with numerous questions, separate and apart from each other, with direct reference to the charges preferred against them, coupled with the injunction that it were better for them that they should tell the truth.’ One of the defendants had been taken also to the scene of the supposed burglary.

“As in earlier times physical torture, so in later days the ‘third degree’ has been resorted to on occasions as a mere matter of convenience—to save the trouble of hunting up evidence elsewhere. Thus, in an article on ‘The Judicial Use of Torture’, Prof. Lowell says: ‘Sir James Stephen tells us that during the preparation of the Indian code of criminal procedure, in 1872, some discussion took place about the reasons which occasionally led native police officers to torture prisoners, when an experienced civil officer observed, “There is a great deal of laziness in it. It is far pleasanter to sit comfortably in the shade rubbing red pepper into a poor devil’s eyes than to go about in the sun hunting up evidence”.’

"Prof. Lowell, after advocating so radical a departure from criminal procedure as to require the accused to testify on the trial, goes on to say that any preliminary examination of the accused, however conducted, offers, in the nature of things, a great temptation to oppressive and cruel treatment, and to prosecutions on insufficient grounds, while it tends to lessen the incentive to an independent and laborious search for evidence, and hence to a thorough investigation of the facts."

Meanwhile an encouraging note of protest comes from the South, the Georgia court of appeals, in the case of *Holmes vs. State*, having upheld recently the right of a man to defend himself from illegal arrest, even at the cost of taking life. The defendant in that case was a negro, and used his gun after the officer had shot at him. The *Central Law Journal* remarks: "The sacredness of one's person from illegal arrest, or his habitation from unlawful intrusion, is often disregarded these latter days, especially in our large cities, where it frequently occurs that men are placed under arrest without warrant and for offenses not committed in the presence of the officer."

Perhaps it may not be impertinent to notice here the fact that Inspector Byrnes, who is credited with the invention of the "third degree", accumulated a fortune from his office, though his expenditures were on a princely scale, and to contrast this with Mr. McAdoo's statement relative to the London policeman's recognized honesty. In this connection he remarks: "It may be of interest to note that a chief inspector who died while I was in London, after serving on the police force for nearly forty years, and who had a

remarkably brilliant career as policeman and detective, left an estate of less than four thousand dollars. No one ever questioned this man's honesty. The estate left is about what would represent his savings. There is no suspicion of graft in cases like this, and it speaks well for the incorruptibility of the superior officers of the London force. Imagine this man's opportunities in New York to get rich and leave an immense fortune."

Throughout this chapter we are considering the deterrent policy pursued by the police, and are pointing out that the innumerable illegalities in which they indulge are condoned because the people still believe in the deterrent theory, guessing blindly that high-handed action by the authorities makes for the diminution of crime. For this reason we have not dealt with their position respecting the social evil or gambling, for, whatever may be the outcome of this or that special case in which an officer is put on trial for blackmailing haunts of vice, the entire American public knows well that the police habitually derive enormous revenues from those sources. Along those lines practically no effort to deter is made, taking the country as a whole. But extortion is always and everywhere the besetting sin of society's paid protectors; and it is a sin that must be handled without gloves.

The extortion habitually practiced by the police, and the protection they extend to vice that is able to pay, have been for long past matter of such common knowledge that the conscience of the nation has grown callous, accepting the infamous tyranny as among the inevitable evils of life. For this reason



we devote space to this particular phase of the problem, utilizing the discussion to which the present revolt against Tammany's rule of New York city has given rise. The more recent revelations connect themselves directly with the "white slave" traffic, which has grown to such proportions, in New York, under the sheltering wing of politics and the police, that today that city occupies the unenviable position of being the procuring center of the world.

The late Bishop Henry C. Potter, representing the Protestant churches of New York, addressed an open letter to Mayor Van Wyck, November 15, 1900, in which he said, among other things: "But the thing that is of consequence, sir, is that when a minister of religion goes to the headquarters of the police of his district to appeal to them for the protection of the young, the innocent and defenseless, against the leprous harpies who are hired as runners and touters for the lowest and most infamous dens of vice, he is met not only with contempt and derision (of police officials), but with the coarsest insult and obloquy. . . . Before God and in the face of the citizens of New York, I protest, as my people have charged me to do, against the habitual insult, the persistent menace, the unutterably defiling contacts to which, day by day, because of the base complicity of the police of New York with the lowest forms of vice and crime, they are subjected."

So appalling was the scandal under Van Wyck's régime that a committee of fifteen was appointed to investigate the "white slave" trade, and from its report on the tenement-house district we quote as follows: "The revenue-producing power of the sale of

immunity by the police seemed to make the appetite of the police insatiable. The infamy of the private house, with all the horrors arising from the 'cadet' system, did not satisfy official greed. The tenement houses were levied upon and the prostitutes began to ply their trade therein openly. In many of these tenement houses as many as fifty children resided. An acquaintance by the children with adult vices was inevitable. The children of the tenements eagerly watch the new sights in their midst. The statistics of venereal diseases among children, and the many revolting stories from the red-light district, tell how completely they learned the lessons taught them."

It may be necessary to explain that "cadet" is the more recent and eastern term for "mac", a professional seducer, who lives on the prostitution earnings of his victim.

In May, 1903, Lincoln Steffens made a most thorough investigation of conditions in Pittsburg, which he describes thus: "Disorderly houses are managed by ward syndicates. Permission is had from the syndicate real estate agent, who alone can rent them. The syndicate hires the houses from the owners at, say, \$35 a month, and lets it to a woman at from \$35 to \$50 a week. For furniture the tenant must go to the 'official furniture man', who delivers \$1000 worth of 'fixings' for a note for \$3000, on which high interest must be paid. For beer the tenant must go to the 'official bottler', and pay \$2 for a \$1 case of beer; for wines and liquors to the 'official liquor commissioner', who charges \$10 for \$5 worth; for clothes to the 'official wrapper-maker'. These women may not buy shoes, hats, jewelry

or any other luxury or necessity except from the official concessionaires, and then only at the official, monopoly prices. If the victims have anything left, a police or some other city official is said to call and get it — there are rich ex-police officials in Pittsburg."

Here we have in a nutshell the details of as revolting a form of human slavery as ever disgraced the pages of history; existing in what is, par excellence, the city of millionaires, the main beneficiaries of that protective tariff which is supposed to shield the American workingman from the competition of European labor. Thick-headed indeed must be the man or woman who cannot understand at a glance that such slavery is rendered possible solely by the active connivance of the police.

In the summer of 1909 Police Inspector Edward McCann of Chicago was tried for receiving money for the protection of the traffic in women on the west side of the city. Speaking of that traffic George Kibbe Turner, one of the most competent publicists and investigators of the day, has said: "Chicago has it organized — from the supplying of young girls to the drugging of the older and less salable women out of existence — with all the nicety of modern industry. As in the stockyards, not one shred of flesh is wasted."

McCann's trial stirred up great excitement among Chicago's Jewish population, for it developed that Julius Frank, president of a Jewish congregation, was a notorious leader in the traffic. The *Forward* made a special investigation of the case and reported: "One of these prominent Jews is Julius Frank. Julius Frank confessed openly that he was the owner

of a number of disorderly houses. He confessed that he paid protection money to the police so that his houses might not be raided." To their great credit be it said the leading Jews of Chicago took the matter up immediately, and in the most energetic manner.

In an article in *The Survey*, dated November 6, 1909, on "The Police and Vice in Chicago", Graham Taylor considers that the situation there has improved with the resignation of Chief George M. Shippy. He states that under Shippy's régime "the League for the Protection of Immigrants was obliged to seek the police power of the national government to protect defenseless women and girls from the aggressive exploitation of organized vice syndicates, with which the Chicago police could neither be shamed nor forced to interfere. Through the swift and sure work of the Department of Justice at Washington, in co-operation with the Bureau of Immigration, the United States district attorney was able to break up the principal centers of the traffic openly maintained by these outlaws. Some of them were driven to jump bail as high as \$25,000 in their flight to foreign lands, only to be arrested and imprisoned on landing in accordance with the international compact against them. But this was possible only by substituting the national secret-service detectives for the Chicago police, who conspired with the criminals in thwarting justice.

"During this same police administration no less than thirty-three dynamite bombs were exploded on the streets and within buildings in the very center of Chicago, most of them in front of gambling establishments. The suspicion is generally entertained by the people and the charge openly made by the press that most, if not all, of these crimes are traceable to the

gamblers whom the police had driven out of business, and who thus entered their gentle protest against the police protection of a few influential gamblers who openly continued illegal gaming. Thus public opinion accounts for the fact that no indictments or even arrests were secured against the perpetrators of these outrages, which wrecked buildings and imperiled life. The alacrity with which the police sought to fix the responsibility for 'bomb No. 31' upon a labor union man, who, however, has not yet been tried or convicted, only strengthens the suspicion that the police did not dare expose their own complicity in the occasion for these crimes, by bringing their perpetrators to trial."

In November, 1907, George Kennan, writing in *McClure's Magazine* on conditions in San Francisco, describes the situation there in the following concise language: "The saloons, generally, had thrown off all restraints of law; brothals, gambling dens and assignation houses multiplied and flourished under administrative protection; women lured men to dives and deadfalls, and assisted in the work of drugging and robbing them; charges brought against law-breakers were dismissed, or indefinitely postponed, by the police commission and the police courts; honest officers who tried to enforce the laws were transferred to quiet and unimportant resident districts." In connection with which last remark may be considered the statement by S. S. McClure, in *McClure's Magazine*, November, 1909, that the United States "is the only country in which honest policemen have everything to fear in enforcing the law, and in which the police in general are engaged in degrading the communities that they are supposed to serve". He

points out further that all this is a far graver question than one of mere dollars and cents, our very national life being threatened, and says: "Across the entire United States a standing army of tens of thousands of 'cadets' and prostitutes, practically all of them diseased, is maintained by the politicians of its large cities for the perennial infection of the population. An army of lepers of equal size would be far less dangerous. The very existence of the present force demonstrates that it is daily infecting thousands of people with one of the most terrible diseases known to medicine." All of which is made possible by the direct connivance of the police; the fact that they themselves are under the thumb of the politicians explaining, perhaps, but in no way altering the desperate situation.

That the police generally look to the politicians as their real masters is emphasized again and again in the articles that have appeared recently from the pen of Gen. Theodore A. Bingham, late commissioner of police in New York city. In *McClure's Magazine* for November, 1909, he relates the history of his efforts to procure the passage of a bill that would bring the force more under the control of the commissioner, who is supposed to be the head of the entire system, and says: "I was told that it would be impossible to pass this bill, but we succeeded in passing it in the spring of 1907 — after I had got hold of and had had redistributed to the members of the force eighty thousand dollars which had been collected secretly among them to defeat it in the legislature."

Gen. Bingham thus describes the experiences through which he passed when he assumed office: "I found immediately that among the officers of the



force there were very few I could trust to carry out my orders in good faith. The reason was very simple. I was head of the department for an indeterminate period, which might end at any time. Back of me was the mayor, who chose me, and whose office would also end at an early date. Back of him was the permanent political machine, which elected him. As the policeman is in office for life, he very logically looked past both the mayor and me, and made his alliances and took his orders from the only permanent influence concerned — the politician."

The entire position, therefore, sums itself up thus: In theory the police are the servants of the people, charged with the prevention and suppression of crime. In reality they are the servants of the dominant political machine, with which they invariably make their alliance because such alliance renders their tenure of office secure and guarantees them enormous illicit revenues. Instead of being interested in the suppression and prevention of crime they are directly interested in its continual increase; just as the vast array of struggling medical practitioners are dependent on the spread of disease, and the swarms of needy lawyers on the multiplication and subtle elaboration of laws. With all these classes the struggle for existence and the fundamental instinct of self-preservation hold supreme sway. But society also must preserve itself, and crime, physical disease, the multiplication of crime-breeding laws and official corruption are fatal to it. All these, somehow or other, it must abolish, if it is to survive; and nothing is more certain than the fact that, in its war against these evils, it must reckon as enemies those who owe their living to the existence of those evils. We speak, of course, in general terms,

granting freely that there are exceptions to the rule — individuals who rise to the occasion and prefer the public good to their own private welfare.

There is another matter in which the police proceed directly on the deterrent, or frightening principle; arrogating to themselves the guardianship of public morals, in defiance alike of the United States constitution and the laws of individual states. We refer to the suppression of free speech, the most unpardonable of all crimes since it strikes not only at liberty, but at all human progress, it being impossible for the mind to advance save by hearing both the true and false, and discriminating between them. Whatever may be the faults of the British they have stood loyally for free speech these many centuries and have bequeathed us a literature, as in Mill on "Liberty," the "Areopagitica" of Milton, and other immortal works, which have made the scholars of the world a unit on this as the most indispensable of all liberties. That it should be in the power of an ignorant, and too often utterly corrupt, policeman to deprive educated persons of their right to express themselves, and the audience of its right to obtain instruction, is probably the most alarming feature of modern official encroachments.

But, if the police break up meetings without warrant and illegally arrest those whom they consider undesirable agitators, this is only an infinitesimal part of the unceasing campaign they wage against free speech. It is in the constant pressure brought to bear by them upon the press that the great suppression lies, and this every editor and police court reporter in the country knows full well. In our larger and smaller cities alike the heart of the day's news would be lacking if the

items obtained from the courts were omitted, and it is this which clothes the police with such despotic power. Let an editor yield to the indignation so frequently felt by his court reporter respecting some more than usually flagrant outrage committed by an officer; let him brave the authorities by exposing it in his columns, and his paper will be denied the news without which he dare not go to press. When the reporter applies for information at the various desks, next day, he will be told that nothing has transpired; and the representatives of rival papers, more wisely subservient, will "scoop" him at every turn. A reporter so boycotted becomes at once an impossibility, and, however greatly his editor may value his abilities and past services, it becomes necessary to withdraw him. Every newspaper man in the country, we repeat, knows this well, but probably even few of that class have thought out the enormity of the censorship thus exercised by the police.

## CHAPTER IX.

### THE FEE SYSTEM

Over the sheriff's office in Los Angeles appears, in huge letters, the inscription "Hall of Justice". And the office is run on the fee system! And we flatter ourselves that we are a nation with a sense of humor!

We shall explain the fee system briefly and illustrate it by only a few examples because it stands so obviously self-condemned, incapable of putting up even the semblance of a plausible defense. It is part, and perhaps the most despicable part, of the deterrent system, because, under the pretense of ridding the rural communities of tramps and undesirable characters, it is the rod of terror held over workers who, when thrown out of employment in the cities, take to the provinces in search of a chance to earn a living. It is the squeezer by which justices of the peace and country constables extort a most nefarious livelihood. It goes without saying that the trade of running men in "for revenue only" is not one that ever appeals to a high order of intelligence or character, but in hundreds of counties throughout the United States the machinery of justice is so arranged that the income of men of this class is dependent on the number of persons they can catch and land in jail. Under such conditions justice becomes a farce and the taxpayers are bled remorselessly.

We use this condemnatory language with confidence both because of our own knowledge of the system, and

because it was the subject of a special report made to the American Prison Association congress of 1907 by a committee, composed of four noted criminologists appointed the year previous to inquire into the conditions of county jails. The committee expressed itself, in part, as follows: "We turned up plenty of ugly testimony to the effect that when a county sheriff is paid for his services in fees, rather than by salary, he must have the sturdy virtue of a Cromwell or a Lincoln to preserve his soul in a state of grace. The testimony from all parts of the land demonstrates that the fee system tends to injustice, to false imprisonment, to delay of trials, to plunder of the public treasury, coming and going, in and out, to partisan corruption, to official robbery, to the defilement of the character of the agents of justice."

Is it possible to damn in stronger terms? When you strip off the trimmings and get down to essentials, what is a country really worth in which there is injustice, in which there is false imprisonment, in which trials are willfully delayed, in which the public treasury is plundered, in which there is partisan corruption, in which there is official robbery, and in which the character of the agents of justice is defiled? Yet every one of these unspeakably serious charges could be amply proved as existing under the fee system. One need not go a hundred miles from Los Angeles, Cal., where this is written, to name men who have been arrested, lodged and kept in jail long terms for no other reason than that their evidence was stated to be necessary in a certain prosecution, to say nothing of the army of unfortunates whose sole crime was that they were out of work and had the enterprise

to pack their blankets and scour the country for a job. While as for "partisan corruption", it is common knowledge that wherever the fee system prevails the sheriff's office is one of the fattest political plums, though no one can say what it is actually worth.

It is to the credit of the federal government that although it lags far behind in the matter of juvenile probation laws and other reforms, it has abolished the fee system. Elsewhere it generally has been possible to do so only after conditions have reached a point at which the scandal has become unbearable, for active financial interests are at stake and fight desperately against change.

The processes by which men are railroaded to jail will be seen most clearly if we take the case of the country constable, and, since it is much the same wherever the fee system is in force, we select a town in Los Angeles county, given in the constable's returns as seventy-six miles from Los Angeles. The record shows that the constable there in December, 1908, arrested and brought to Los Angeles forty-two men. Four of these arrests were for vagrancy, thirty-seven for malicious mischief and one for battery. Seeing that the town in question has only 300 inhabitants, it must either be frequented by an unusually large percentage of bad men or the constable must have an exceptionally keen eye for evil-doers. Well, the constable's bill against the county for that month is \$209.68, of which \$159.90 is for "mileage"—the taking of his prisoners to Los Angeles for trial. He is allowed a fee of \$1 for each arrest and mileage of twenty-five cents a mile within his township and fifteen cents a mile outside of it. It is needless to say



that the railroad companies do not charge fifteen cents a mile, and in this one item of mileage there is always and everywhere the biggest kind of a rake-off.

Take another town, also given in the latest guide as of 300 population. There in December, 1908, the constable made 104 arrests, surely an enormous number for so small a place! Seventy-one of these were for malicious mischief, fourteen for vagrancy, and sixteen for evading payment of railroad fare. The bill against the county was \$362.80. The previous month it had been only \$123.10, and the month before that only \$8. In fact, if one were to judge by the officer's returns, this village is visited by extraordinary waves of crime. In a single month the constable does business that brings him in \$362.80, and there are three months in which he does not make a cent. But an explanation lies in the fact that the salaries made by many country constables became such a scandal that the board of county supervisors limited the amount any one could draw to \$1200 a year. It is permitted, however, to lump the entire twelve months, so that the returns for a few active months may make up the total that can be charged for the year.

Here is another town, in the same district, on the same line of road, practically under the same conditions as those prevailing in the one just considered. But it has exactly four times the population. Yet the constable's bill for December was only \$92.90 as against \$362.80 in a neighboring town of only one-fourth its size. But he also manages to draw his full amount from the county, the bill rendered for the year being \$1201.35.

Is it necessary to multiply examples? Everywhere and always it has been understood that the country constable, often, if not always, in collusion with the justice of the peace, has feathered his nest from his mileage. One cannot imagine a more direct inducement to run men in and convoy them to the county jail, regardless of their innocence. And constables have been known to help a friend who wanted a trip to town by making a convenient arrest and putting him in charge.

San Bernardino county, Cal., is a good illustration. They put all their officers on straight salary some fourteen years ago, but the mileage charges were retained. The amount that certain constables were making became a public scandal; such towns as Victorville, Barstow, Daggett and the Needles became known as "hobo mills," and at one town the justice of the peace was familiarly known as "Ninety-day" — having the reputation of running in every possible stranger and passing one invariable sentence. In August, 1908, the grand jury, after investigating the claims sent in by desert constables, recommended that they should be allowed to charge only such mileage as they had actually paid for, and at present every constable's account contains an affidavit to that effect. What has happened? The constables have united and brought a test case, seeking to have the action taken by the county declared illegal.

We have given the evidence of sworn statements on file in the Los Angeles courthouse, but newspaper men know well that there is a class of evidence that, if possible, is even stronger than this — universal testimony. Every newspaper man who has investi-

gated this field knows that the testimony of the men who, often from choice, but also often from necessity, pack their blankets will support unanimously our charges, and there is in Los Angeles more than one reporter and curious amateur who has gone on the tramp to verify for himself the general report. An article by one of these is now before us. It begins by saying that the man in search of employment has nothing to fear from the railroad detectives or the city policemen who are on salary, but that the tramp catchers "for revenue only" will arrest the sick and crippled without mercy. The reporter in question carried a gold watch and had too prosperous an appearance for the part, with the result that almost the first country constable he met after leaving Los Angeles fraternized with him and asked him to his office. The story proceeds:

"Entering, he invited me to be seated, and then he inquired about different persons employed at the Pacific Electric company. Just then a fellow carrying a big roll of blankets passed the depot. The constable almost jumped out of his seat, stopped the laborer and after he found that this harmless fellow, who had been peacefully counting the ties toward Los Angeles, where he expected to find some employment on the aqueduct, had only forty cents in cash, he placed him under arrest as a vagrant, in spite of all the pleadings of the poor fellow, who had proof on his person in the shape of letters and recommendations, that he had a large family and old parents to support."

This simple story could be reproduced from a hundred different sources, and is repeated over and over again in the narrative just quoted from. Occasion-

ally it is relieved by a touch of humor, as where a Mexican constable confessed that "he had to arrest \$75 worth of tramps a month to hold his job, as \$35 had to be paid by him to the fellow who had given him the chance to make this kind of a living." But perhaps the most suggestive part is that which says: "I discovered that Orange county had saved last year \$22,000 in county expenses by paying cash salaries to its constables and their deputies. I found at Orange a total absence of interest in harmless wanderers, and no one is arrested in Orange county on trumped up charges. The taxpayers are saving money formerly wasted in feeding tramping loafers and feeing loafing officials."

In 1903 another county, Kern, which, like Orange, adjoins Los Angeles county, abolished the fee system, putting its officers on straight salaries. It reports a saving of thousands of dollars and an immense decrease of commitments. The *Antelope Valley Gazette*, published at Lancaster, Los Angeles county, recently made a special investigation of the effects of the change on its neighbor. Among others it interviewed Judge M. G. Reddy of Mojave, the junction of the Southern Pacific and Santa Fe railroads and a point productive of numerous arrests under the fee system. It showed him the returns from Lancaster in November, 1908, and remarks as follows: "When scrutinizing more closely the proceedings for November the judge admitted that under the commission system his court proportionately could have had a list of six hundred instead of seven, if Lancaster could produce forty-one. Judge Reddy felt there was less chance for ill use of power and connivance, besides a

man was freer to act impartially when there was no financial interest at stake."

These illustrations will hold good wherever the fee system is in operation, for the proposition is simplicity itself. The constable's income is dependent on the number he lands in jail, and as soon as he has hardened to his occupation he may be relied on to use every trick at his disposal to swell his income. He is no longer an agent of justice; he is a trafficker in human liberty.

We have taken up the trail at the start, where there are no complications, and it can be easily read. Were it to be followed to the county jail and the sheriff's office, where the administration of both the civil and criminal law is burdened with an endless succession of fees, every one of which denies justice to the poor man and makes it the monopoly of the rich, the tracking might be more difficult, but the result would be identical — an entire class pecuniarily interested in depriving their fellow beings of liberty. The situation unquestionably is not ideal.

Meanwhile reformers and thoughtful people write papers and deliver addresses. They show how the figures of criminal convictions mount with every industrial depression, and trace cause and effect. They deplore the congested condition of our cities and explain the necessity of the worker getting back to the country and the land. They criticise the arrangements of our city and county jails, in which the innocent, the juvenile and the first offender are herded cheek by jowl with the hardened criminal, the chronic drunk or tramp, all the flotsam and jetsam that a one-sided civilization carries on its current. They declare these conditions must not exist one moment



#### THE BULL RINGS.

This form of torture—otherwise known as the “hook” and “strap-pado”—is in wide-spread use. It causes excruciating agony. See page 46.



longer, and they declare it so vociferously that now and again some paper takes the question up and creates an ephemeral sensation by writing up a jail with sickening fidelity.

On the other hand conservatives swell the chorus with laments over the increasing tendency to discontent and violence manifested by the workers. They ignore the fact that we have passed through a long series of revolutionary industrial changes, producing unsettled conditions that have thrown huge armies of men out of work. It is not pleasant to be anxious to earn a living and to find the opportunity closed. Enforced idleness invariably produces a mental irritation that is fruitful of disturbance, and on the top of this inevitable bitterness comes the country constable, "for revenue only", anxious to make his living out of his mileage and fees, and arrests the man who harks back to the country and industriously canvasses it in search of work.

Yet this is the system found, strongly entrenched and apparently impervious to criticism, in even the most progressive sections of the country—in Indiana, for example, which has taken a most advanced stand otherwise in all matters pertaining to crime and the treatment of criminals!

When considering the southern convict camps we gave the affidavit of a deputy sheriff in Alabama, who explained how he made between \$5000 and \$7000 a year, thanks to his being permitted to arrest anybody on suspicion. Everywhere the system works in the same manner, and nowhere can it defend its existence except by the forceful plea that it is here and has all the backing that politics and heavy financial interests

can give it. The Prison Reform League delegate to the American Prison Association congress held in Seattle, Wash., in August, 1909, vainly endeavored to force this particular issue to the front. Among those of his colleagues whom he interviewed was a southern governor, who admitted freely that the system was indefensible, and that the gravest scandals had arisen not from the state's treatment of convicts, but from that followed by the counties, whose officials cling desperately to the fee system. He declined, however, to urge the question, declaring that it was far from popular with his constituents. A true politician's reason! Turn where you will in the investigation of prison abuses the hand of politics will be found upholding those that are least defensible.

We give herewith a statement by the state president of the Southern California W. C. T. U., who speaks from long experience. It is as follows:

"For many years past, as an active member of the W. C. T. U., I have been in the habit of visiting the Los Angeles county jail, always once a week and often more than that. Serving as prison worker and county superintendent of Los Angeles county for eight years I necessarily made the close acquaintance of a large number of prisoners, and as my presence grew more and more familiar I became the recipient of many confidences that would have been withheld from a stranger.

"My attention was called at a very early date to the fact that a large number of the inmates persistently claimed that they were entirely innocent of crime, their only offense being that work had given out in the city and they had packed their blankets in search

of employment. This statement was repeated to me over and over again, and I have a distinct recollection of one man who assured me that he had made seven unsuccessful attempts to get out of the county, being arrested on each occasion by constables who asserted that he was a professional tramp, whereas he was making a genuine effort to go elsewhere and obtain the employment he could not get in Los Angeles or its neighborhood.

“So frequent were assertions of this character made to me by inmates of the county jail, and so closely did they correspond that I found it quite impossible to believe that all these men were lying, and my curiosity as to the workings of the fee system, under which these prisoners claimed they had been hounded into jail, became actively aroused. From the investigations I pursued I am convinced that an enormous injustice is done toward many entirely innocent men, who owe their incarceration solely to the fact that the income of country justices of the peace and constables depends entirely on the number of prisoners they can send to the county jail, each of whom means so much clear profit in arrest fees, mileage and other incidentals.

“A more iniquitous system cannot be conceived. The officers of the law are supposed to regard every man as innocent until he has been proved guilty, and to endeavor to save the community expense and friction by preventing crime and harmonizing threatened disputes rather than by burdening it with the cost of supporting large bodies of men in compulsory idleness. But under the fee system the constable quickly acquires the habit of regarding every poor man as a

possible source of revenue, and a man-hunting instinct inevitably develops that kills all sense of justice.

"It will be found that the charges against these prisoners are almost invariably of the most trivial and vague character — malicious mischief, disturbing the peace, vagrancy and the like — precisely such as rest on the word of the officer and which a poor and friendless man has most difficulty in refuting.

"For myself, and speaking from the experience of years, I am well convinced that an immense injustice is done, and one by which the community is a heavy loser both financially and in other ways of still greater importance.

(SIGNED)

"MRS. HESTER T. GRIFFITH,

"State president Southern California W. C. T. U."

Los Angeles sheriffs used formerly to give rewards to deputies making the greatest number of arrests, and one well-known officer to this day displays with pride a golden star so won. Happily the practice has been discontinued under the existing administration.

In the fourteenth annual report of the New York State Prison Commission, dated February 23, 1909, appears the following: "A boy had recently been discharged on parole from the Rochester industrial school and had been employed during the fall and early winter by a farmer, who did not need his services for the balance of the winter and let him go. The boy started out to find other work, which is not always easy to do in the dead of winter in the country. He was picked up by an overzealous constable, who took him before a rural justice, who adjudged

him a vagrant and sent him to the county jail for six months, which would keep him in prison the entire spring and part of the summer. Very few county judges would allow such a commitment to stand if they had jurisdiction over it and the matter was brought to their attention. We read about such oppression in some distant foreign lands and execrate the governments that permit or cause them, ignorant or unmindful of the conditions existing in our own state. Police officials should not be permitted to arrest citizens simply because they are without work and without money, and magistrates should not be permitted to send such people to prison."

In conclusion we cannot do better than quote from "The Beast and the Jungle," the series of articles in *Everybody's Magazine* wherein Judge Ben B. Lindsey of Denver is giving the history of the struggle that preceded the establishment of the juvenile courts. That he immediately found himself face to face with the fee system will be seen from the passage selected, which is as follows:

"I went to the clerk of the court, Mr. Hubert L. Shattuck. 'This is all wrong,' I said. 'It's all nonsense—bringing these children in here on criminal charges—to be punished—sentenced to prison—degraded for life!'

"'Well, judge,' he explained, 'we sometimes get short on our fee accounts and it helps to increase fees in this office to bring the kids here.'

"It did. The officers of the court were paid so much for each conviction obtained by the court. They received no regular salaries. When they wished to make up arrears of pay, they rounded up a batch

of youngsters and 'put them through'. The same thing was done in the police court, the court of the justice of the peace and the criminal court.

"It was more than absurd, more than wrong. It was an outrage against childhood, against society, against justice, decency and common sense.

"I began to search the statutes for the laws in the matter, to frequent the jails in order to see how the children were treated there, to compile statistics of the cost to the county of these trials and the cost to society of this way of making criminals of little children. And the deeper I went into the matter the more astounded I became.

"I found boys in the city jail, in cells reeking with filth and crawling with vermin, awaiting trial for some such infantile offenses as these I have described. I found boys in the county jail, locked up with men of the vilest immorality, listening to obscene stories, subject to the most degrading personal indignities, and taking lessons in a high school of vice with all the receptive eagerness of innocence. I found that the older boys, now almost confirmed in viciousness, had begun their careers as Tony Costello had, or these burglars of the pigeon roost. And I found that many of the hardened criminals were merely the perfect graduates of the system of which I had been a sort of proud superintendent."



## CHAPTER X.

### COUNTY AND CITY JAILS

Captured by the country constable and convicted by the country justice of the peace, the prisoner is landed in the county jail, which, with the city jail, also plays no inconsiderable part in our deterrent system. We shall consider both in this chapter, but before passing to a description of these establishments we desire, in order to emphasize the gravity of the situation, to call attention to one fact of which many are ignorant, viz., that a large proportion of the inmates of our penal institutions, and especially of our city and county jails, are still at that tender age when character is in process of formation. And when we are told by one of the most conservative papers in the country, the *Los Angeles Times*, in its editorial of August 18, 1909, that "the atmosphere of the American jail reeks with coarseness, vulgarity, crime and brutishness", it behooves us to remember that many of those whom we subject to such surroundings are the merest youths, just at that stage of their careers when lessons of good or evil are most readily assimilated.

In a recent article Lewis E. Palmer, a special writer for the Survey Press Bureau, which performed such excellent service in its exposure of conditions in Pittsburg, says: "The surprising fact is that about half of America's offenders range between the ages of ten and thirty. There were, according to the latest figures, 26,983 'boys' between twenty and twenty-four, and 13,886 between fifteen and nineteen,

and 695 between ten and fourteen." Here we have more than 14,000 not over nineteen years of age, and many of them far younger.

The same writer continues: "According to the general policy of the United States at present, short sentences in jails and penitentiaries constitute by far the majority of punishments. Over 28 per cent. of the prisoners in this country, according to latest figures, were sentenced for under one month. About 19 per cent. received one month sentences, 7.5 per cent. two months, and 11 per cent. three months—sentences for a large part worked out in the generally degrading influences of county jails and penitentiaries." To which must be added the reflection that prior to conviction there has been a previous detention in the equally degrading environment of our city jails.

For our California readers these facts and figures gather added gravity when it is considered that, according to the latest report of the American Prison Association, the commitments in that state are 523.4 per 100,000 of the population, which may be compared with the fact that in Illinois, despite the existence of that great crime center, Chicago, there are only 80.5 per 100,000. But the remarkable work started in the municipal court of Chicago by Judge McKenzie Cleland, and prosecuted with such successful vigor by those who rallied to his aid, doubtless is largely answerable for Chicago's favorable showing.

Let it be remembered further that, while it has been shown on the authority of congressional investigation and noted experts that throughout the civilized world crime is on the increase, this increase is most marked in the case of juvenile offenders. For example, Massachusetts recently reported that within the

last fifteen years the number of offenders under seventeen years of age had grown three times as rapidly as the population of the state—a shocking exhibit for a state that has been exceptionally earnest in its efforts to deal with crime along enlightened lines.

It is in view of this fact that the degenerative influences of our city and county jails and state penitentiaries assume an importance of the first magnitude, for, while it may be thinkable that society can harden its heart and abandon the hardened criminal to his fate without excessive injury to itself, it is not thinkable that it can permit its youth to be submitted, in increasing numbers, to the malign environment of our penal institutions as they exist today, without striking a fatal blow at the very existence of the nation. And this is the special phase of this great question which the women must take up, for the juvenile offenders are their sons, and should be the husbands of their daughters. It is their sons who get into trouble and fall with growing frequency into the clutches of the law; it is their should-be husbands who grow vile in the prison atmosphere, acquiring disease and degeneracies that eliminate them from the list of marriageable men; it is they, as wives and mothers, who suffer most keenly when the bread-winner is torn from them and lodged behind the bars, often for that most absurd of absurdities, inability to pay a fine.

We think that Judge Cleland hit the nail squarely on the head in saying: "When Senator Beveridge made the statement in congress last year that two million children were at work in factories and sweat-shops, he should have gone further and told us how many of their fathers and mothers were locked up in jails and penitentiaries. That would have been in-

formation certainly interesting." A criticism that we can appreciate who know how, under our fee system, would-be workers and supporters of families are hounded into jail that parasites of the most noxious order may make their mileage and arrest fees; who know even how sheriffs stimulate the man hunt by offering rewards for the deputies that gather the greatest number of captives into the net.

We direct particular attention here, however, to the "boy" who, as we have shown, figures to such an alarming extent in criminal statistics. He passes through the Fagin schools of the city and county jails, and presently we have him in the penitentiary. There the term of detention, and the consequent separation of the sexes, is far longer; and there the education in crime, and in vices that are themselves the deadliest forms of crime, is completed. There he rounds out the education that fits him to become a chronic tramp and hobo; a man who never marries, and who floods the country with degenerate vices that threaten the very existence of the nation.

All life hangs together; we need no one to tell us that. We know well that the prison is but part of the great social question; that, as a general rule, poverty is the parent and the slum the kindergarten of vice. But we also know that, while these prepare the soil, it is the administration of our criminal law that plants the seed and supplies the tropical conditions that bring it to the instant maturity of crime. We know that the yielding to crime can be traced in large measure to unsound nerves and weak wills inherited from parents who themselves were brought up in unsound surroundings; and that, on the average, it is the feeble, those with less than the average resistance

power, who succumb. We know that man, having slowly evolved from savagery, is ever subject to the drag of his past, urging him to revert to the lower and easier standards of primitive times. But that makes it all the more imperative that society, if only from the instinct of self-preservation, should not set the trap into which, for the weakling, fall is as certain as the law of gravitation. And it is to be remarked that while tens of thousands of self-sacrificing women, as well as men, are grappling strenuously today with the slum and factory conditions that make for viciousness, few are concerning themselves with the jail conditions that render crime and the deadliest of vices inevitable.

With these preliminary observations we proceed to a direct consideration of the conditions generally prevalent in our county and city jails, where tens of thousands of our fellow citizens, of both sexes and of all ages and social grades, find themselves detained, many being only accused of crime or petty misdemeanor, while others are merely held there as witnesses.

Jail conditions are the subject of continual criticism, almost invariably unfavorable, in the daily press, but a general birdseye view of the situation can be obtained only by referring to some exhaustive report, such as that published in 1907 by the American Prison Association. On that we shall draw, therefore, at unusual length, for it covered the widest area and was most thorough, the committee informing the congress that it had collected and made abstracts of the laws of all states relating to county jails, and had gathered more than 289 schedules from thirty-seven states and territories. It may be re-



garded, therefore, as exceptionally authoritative, and it was rendered just two years ago. Tasks of such magnitude can be undertaken only at rare intervals, and this report is the most instructive guide we are likely to have for years to come.

The report begins with a consideration of "Conditions of Security". Here, and here only, is it favorable, the statement being that "a few jails are reported to be too badly constructed to hold dangerous criminals; but apparently nearly all are secure or contain steel cages for special cases. There does not seem to be pressing need of attention and reform in this matter. If the only or chief purpose of jails were to keep wild beasts in cages, most of them are well enough adapted to this purpose."

Of "Conditions of Health" the committee remarks that "John Howard, with very inferior scientific knowledge, tried to make England realize this point—the importance of sanitation—in the eighteenth century, and neglect of it has been the responsible cause of thousands of deaths—of sheriffs, jailers, judges and honest work people. Even if the unconvicted prisoners, many innocent of crime, could be disregarded, public interest in the hygienic conditions of jails is involved."

Under the head of "Food" this conclusion is reached: "Speaking with all due respect of county officials we affirm, upon our evidence, that they are not usually competent persons to draw up a dietary for prisoners of any kind. And as to the customary mode of serving food we can use no milder phrase than that it is revolting and demoralizing, and often dangerous to health. It would seem that the average county authorities think that anything is good enough



for a prisoner and that the word 'prisoner' means a condemned criminal."

Of "clothing, and especially underclothing", the committee has little to say, except that, as regards supplies furnished by the county, "the replies reveal inequality and partiality which shock the sense of equity and justice". But on "beds, bedding and cell furniture", it is extremely eloquent, saying, among other things: "Spartan simplicity reigns in the furniture of cells; a table, a chair, an iron frame, hinged to swing against the wall, or a canvas hammock, occasionally a shelf and a mirror. Often we must imagine bunk over bunk, in the same cell or cage, crowded until the horrors of stench and suffocation are indescribable. Simplicity is desirable; there is no call for luxury; but there is no reason nor fairness in subjecting unconvicted citizens to dirt and crowding, and thus punishing them more severely than the felons sent to a state prison, and that even before trial, while they are legally and presumptively innocent." And again: "Under an open jail system the filthiest, vilest prisoner punishes and tortures those who have not yet sunk to his level, for the vermin crawl from him to others, and the stench from his dirty bedding defiles all other cells and corridors. Under an isolation cell system this could be prevented; with the open structure, practically universal, it is impossible to prevent it. This is true of the lockups of many cities as well. The situation is vile."

On the question of "ventilation" the committee professes itself insufficiently scientific to give an expert opinion, but on "Light" it says: "The very structure of the ordinary jail is radically wrong and offends against the laws of health. From ocean to

ocean one uniform plan has been slavishly copied from bad models—a cage of cells surrounded by a corridor. Into this corridor are emptied the foul breath and foul language of the occupants of darkened cells. It becomes a common reservoir of deadly elements. The light of windows and the pure air do not enter the cell directly, but only through this corridor. No man builds a pig pen or a hen coop on such a monstrous plan. The jailer's residence adjoining always admits sunshine and air directly into each sleeping and living-room."

"Exercise" is treated in the following emphatic language: "We hear, in almost all the reports, the dull, monotonous, maddening tramp of prisoners aimlessly walking up and down the corridor of the county jails of our land. Of course, this tramp is not at the specific command of the jailers; the slouching march over the same dead level of stone floor is the only means of exercise, and in that sense compulsory. In Francois Coppe's story, 'Le Coupable', we have a vivid and dramatic picture of the physical and psychical effects of this irrational, aimless, maddening form of exercise. Let anyone of us imagine himself waiting, perhaps for many months, perhaps even for years, with no exercise but the tramp, tramp in the close and dark corridor of a county jail. It is the path straight to lunacy. Why not have walled yards in the open air, partly sheltered from rain, covered over with steel wire to prevent escape? It is simple; it is easy; it is human justice; it is social interest and wisdom. But it is rarely thought of. Anyone who has seen French jails of the better sort knows how easy it would be to correct this defect."

Considerable space naturally is given to the question of "crowding". The declaration is made that "the modern, up-to-date, scientific standard is that each prisoner awaiting trial must have a decent and spacious cell to himself, without corrupting and degrading contact with criminals; and that when two inmates are in company there is crowding in the hygienic and moral sense". And the report continues: "Judged by this modern standard, almost every jail reported to us requires to be rebuilt on a new plan; almost all are liable to be crowded, if there are more than two or three prisoners at one time." The returns are reported as covering an immense variety of conditions, "from the almost entirely empty rural institution, in a prohibition county of Kansas, where the only inmate was a man who had kept a 'blind pig', to the ill-smelling city jails, where, at times, the cells are packed at night like the lower deck of a slave ship, and where the corridors afford scant room for the crowd of men who swarm in there during the day. An average for the whole country would mean nothing." The following examples are then given, the report being submitted, it must be remembered, just two years ago:

In Birmingham, Alabama, we find reported 240 men in 72 cells and 25 women in 10 cells. The cells are 8 by 9 feet. There was 1 boy.

In Denver, Colorado, there were 189 men in 90 cells and 22 women in 20 cells, 6x9 feet.

In Los Angeles, California, there were 135 men in 86 cells; there were 30 cells designed for four men each and 48 cells designed for two men each, 8x8 feet and 8x6 feet.

In Colorado Springs, Colorado, there were 55 men in 19 cells, and 4 women in 1 cellroom.

In Stockton, California, there were 6 "drunks" in 1 cell, 15x18 feet, and 40 prisoners in 26 cells.

In Washington, D. C., the total capacity claimed by the authorities was 320, while the total population was 474 — a bad example for the capital city of the nation.

In Chicago, Illinois, there were 434 men in 368 cells, with 39 boys in a congregation by themselves.

In Indianapolis, Indiana, 143 men and 16 women in 54 cells. There were 2 boys, and children were kept in the women's department.

In Terre Haute, Indiana, there were 73 men in 35 cells, and the visitor says there have been 110 at a time in this jail.

In Marion, Iowa, a small jail, built with four cells for men, had 20 men.

Of the rural and village jails it is remarked that they "usually have space enough for health, but they are among the worst for vile familiarities of association. The ordinary standard for judging whether a jail is crowded or not is too bad for a stable or cow shed, much less for human beings. This common standard is that so long as men can find room in bunk, hammock or on stone floor, with a newspaper for a mattress, the place is spacious enough. This is manslaughter."

We must again remind our readers that incarceration in a city or county jail by no means implies that the prisoner is guilty of any offense, the jails being used indiscriminately, and most improperly, alike for those convicted, for those who in the eye of the law are innocent, since they have not been brought to trial, and for many who are held merely as witnesses. A.

good illustration of this we take from an address by Dr. H. H. Hart of Chicago, given in the records of the congress, from the proceedings of which we have quoted so freely. He says: "The constitution and the law say a man who is accused of crime shall be deemed innocent until he is proved guilty. He is entitled to humane and reasonable comfort; to be kept from unnecessary exposure to disease and danger or injury to health or person or morals. He may be an innocent man. He may be like the little Greek boy I saw today, who looks to be not more than 14 or 15 years of age. He is held in the jail of Cook county. What is his crime? He is the only Greek boy that can be found that can testify against these padrones; and the noble county of Cook is holding this child in jail, exposed to all kinds of moral contagion, until such time as it gets ready to put him on the witness stand to prove a case. Some inmates of county jails are held as witnesses. Some are insane. I remember seeing five insane men in a jail in Dubuque, Iowa—sick men, whose only place of refuge was a dark, damp, unwholesome, unsanitary jail, and the only care given was such as was kindly volunteered by their associates, the other prisoners." No words could add to the eloquence of these facts, and it is not of Chicago and Dubuque alone that the story could be told.

At the congress held the following year at Richmond, Va., the association paid little attention to city and county jails, doubtless considering that enough time had been devoted to the subject at its previous meeting, but Dr. Julian W. Sloan of Richmond gave a description of a visit he had paid to the local city jail and spoke of "the miserably filthy, unhygienic conditions I witnessed there". The president in his



opening address also referred to the typical county jail, declaring that "at every prison congress condemnation, dire and fateful, has fallen upon its moss-covered roof, but it smiles and smiles and is a villain still". The 1909 congress, held in Seattle, listened to only one paper on the question, by W. A. Gates, secretary of the California State Board of Charities and Corrections, in which he most severely criticised existing conditions.

We invite our readers to contrast the accounts given above, not by us, but by the special committee and individual members of the American Prison Association, with the description of London's city jails as it appears in Mr. McAdoo's article previously referred to. He says:

"The station houses are so much better than those in New York that comparison would be odious. The worst station house in New York would not be permitted for a day, and the best station houses are not equal to the good ones in London. They are very plainly, substantially, but comfortably furnished, and the sanitary conditions are excellent. The cells have large, high ceilings, are well ventilated and lighted and the walls are tiled. They are never crowded with prisoners. Drunken men and women are well taken care of. They are never placed in berths for fear they may roll out, but are carefully placed on the floor. As the station houses, like the other buildings, are not high, there is plenty of direct fresh air coming in at the top. Indeed, the cells are much more comfortable than many rooms at English hotels where I have stopped, and they actually have a push button to summon assistance. The cell is furnished with running water and the corridor is well lighted from the out-



side. The waiting-rooms are clean and sanitary and with plenty of seating capacity. Indeed, all unfortunates are handled with humanity and charity. The women's prison in the station house in London is thoroughly separated from those of the men."

Compare these conditions with those in any ordinary American city jail; conditions exploited so thoroughly by the daily press and so notorious that a detailed account would be waste of space. Consider, in the first place, that a city jail is solely a place for the detention of those awaiting trial; that every one of its inmates is supposed to be innocent until the verdict has been given against him; and that into this mere house of detention are flung promiscuously, and often with the greatest brutality, persons of both sexes and all ages, drunk and sober, chaste and wanton, presumably innocent boys and girls and hardened criminals. There they pass the night, and often more than one night, under conditions that beggar description; sitting on benches, frequently standing up for lack of room, in a reek of physical and moral filth that the worst slum can hardly match. And consider, further, that all this is done under the supposedly sheltering aegis of the law, whose boast is that it metes out justice and exists, at enormous cost, for the protection of society.

"For three years there has been through the courts and the streets a dreary procession of citizens with broken heads and bruised bodies, against few of whom was violence needed to effect an arrest. Many of them had done nothing to deserve arrest." We gave the quotation, at somewhat greater length, in Chapter VIII. It is from the pen of another New York police commissioner. In the same chapter we gave the full and careful figures compiled by a former governor of

Illinois, showing that in the city of Chicago there were in one year 50,432 arrests, from which there came only 2,192 commitments. Think of the suffering such figures express; of the indignity, always ruinous to character, that they imply; of the fact that the victims are almost without exception from the poorer classes, since the rich can furnish bail, and remember that it is precisely the poorer classes who, from their pernicious environment, have the least resistance power. And reflect, further, that we have shown England as the one country that reports a diminution of crime, while the American record, and notably in the matter of crimes of violence, grows continually worse.

As has been pointed out by one well-known writer, Heman W. Chaplin, we arrest thousands of persons for minor offenses who in England are merely summoned to appear in court, and thus are saved the ignominy of a night in jail. He adds that in not one or a hundred such cases would the accused fail to present himself, and that in several states efforts have been made to follow England's pre-eminently sensible example, but that "the interests of officers' fees intrench strongly the present practice." Here once more you have the real key to the actual and inexpressibly repulsive situation.

With the hardship wrought by the arrest of men and women whose attendance in court could be secured by simple summons there naturally connects itself the gross injustice worked upon the poor by imprisoning them when they are unable to pay the fine imposed. Even the most conservative section of the press has condemned this practice times without number, pointing out that it makes poverty a crime and confers on the rich a special and most valuable privilege. When

a corporation or a rich man's chauffeur is assessed a trifling fine a chorus of disapprobation goes up, the punishment being rightly branded farcical. But the fact that vast numbers of our citizens are put to great humiliation, suffering and loss, simply because they have no money, does not receive by any means the attention it deserves, for the wrongs of the poor are not heralded abroad with any imposing flourish of trumpets. The injustice is so universal, and so universally admitted, that it seems idle to cite authorities, but the following by Judge McKenzie Cleland, of the municipal court of Chicago, puts the case so forcibly, both from the standpoint of the individual and society, that we consider it worthy of reproduction. He says:

"I believe that the sending of thousands of men and women to the House of Correction every year, merely because they are too poor to pay a fine, is barbarous injustice and a wasteful and extravagant method of raising revenue. I believe that locking up a man who has committed a trivial offense, and feeding and clothing him at public expense while his wife and children suffer for the necessities of life, is punishing the innocent more than the guilty. I believe that sending a first offender to jail to reform him is no wiser than sending a child to the smallpox hospital to be cured of measles." The latter part of the quotation deals, it is true, with another branch of this question, but we have thought it right to give the passage intact.

Try to think yourself into some faint comprehension of the disease-breeding, character-destroying, crime-developing features of the picture presented. Link this with your recollection of the wealth of testimony we have offered respecting illegal arrests, the fee sys-

tem and other forces manipulated by the authorities apparently for the purpose of insuring it that the demand for larger and larger jails shall not be allowed to slacken. And consider that, at present, none save a handful of reformers raises even a murmur — because the nation at large is of opinion that anything is good enough for a criminal or one suspected of crime. Dominated by the deterrent philosophy we dream that crime can be stopped by making everything connected with it the acme of misery, and we ignore the obvious fact that, like everything else in nature, it has a cause and that only by removal of such cause can cure be effected.

## CHAPTER XI.

### WHAT GOOD DOES IT DO ?

We have now traced the deterrent principle throughout its principal manifestations. We have seen it on the gallows, in the torture chamber, accompanying the convict at his meals and throughout his daily task in the penitentiary and southern camps. We have examined it as exemplified by the entire attitude of the police toward the public; the illegality of many of their arrests, their administration of the "third degree" and other arbitrary acts. Finally we reviewed it in connection with the fee system and the conduct of our county and city jails. At every step we encountered conditions such as in themselves would meet with universal denunciation were they not defended with the plea that men must be deterred from crime. Since ultimately every tree must be judged by its fruits the practical question arises — what good do these admittedly cruel and often illegal practices do?

In the *Arena* magazine of October, 1908, Dr. George Allen England brought forward a long array of figures to show that from 8000 to 10,000 homicides take place in the United States annually, and that in this undesirable rivalry we lead all countries with the exception of Russian Poland, where violence is largely due to political disturbances, and the Calabrian and Sicilian districts of the Italian kingdom. Chicago murders six times as many annually as does the far larger metropolis of London and eight times more

than does Paris. In Georgia alone more killings take place than in the entire British empire.

No less than 3914 murders were committed in the south during the year 1906, while in the central division of the country the murders numbered only 2843, and in New England, a densely populated manufacturing district, the total was only 254. In our chapter on convict camps we laid special stress on the brutality with which that which professes to call itself the "law" is being administered in the south. Does it not look as if here again we have an illustration of the truth that brutality begets brutality? And it may be remarked incidentally that those whom it has been the fashion to speak of as "low, ignorant foreigners", and whom we glibly charge with being answerable for the swelling tide of crime, are fewest in the south and most numerous in New England.

Similarly a well-known southerner, Judge Thomas of Alabama, in an address delivered recently at Nashville, Tenn., and backed by a formidable array of figures, presented a most alarming picture of the prevalence of homicide in the United States. His statistics showed that there were 20 homicides per million inhabitants in Australia in the year 1905; 14 per million in Japan; 12.4 per million in Canada; 8.4 in England and Wales, and 4.6 in Germany, the figures for the last named being those of 1899. As against these the United States had 115 homicides per million inhabitants in 1905 and 118 in 1906. That is to say, this country had six times as many homicides in 1906 as had Australia, which most nearly approached our record. Judge Thomas showed further that, while the record of Italy and Mexico was even blacker than



ours, conditions were improving in both countries; whereas, as demonstrated by the statistics for 1905 and 1906, in the United States they were growing worse. By an examination of the figures for the New England states he also arrived at the conclusion that the vast number of homicides in this country cannot be laid at the door of the immigrant class.

The figures compiled by the *Chicago Tribune*, and referred to in our chapter on capital punishment, may be cited appropriately here once more. They show that in the United States at large, in 1881, there were only 1266 murders and homicides, and that by 1908 the number had increased to 8952. The increase was almost steady, year by year; but it may be noted, as showing the influence of economic conditions, that the high-water mark was reached in the three years following the panic of 1893, which was succeeded by lengthy financial depression.

S. S. McClure, in "The Tammanyizing of a Civilization" — *McClure's Magazine*, November, 1909 — puts the matter thus: "The murder rate in the United States is from ten to twenty times greater than the murder rate of the British empire and other northwestern countries. The northwestern countries of Europe, which are the only nations worthy of comparison with the United States in their civilization, would require nearly a billion inhabitants — that is, more than half of the population of the world — in order to bring the number of their murders up to that of the United States, with its eighty to ninety millions of population. Canada would require a billion and a quarter to have as many murders as the United States has at the present time. Murder has increased many

times as rapidly as population for the last twenty-five years. During the past fifteen years the number of murders in the United States has been, according to the annual records of the *Chicago Tribune*, 133,192. The entire number of men in the union army who were killed in battle or died of wounds was 110,070; in both the union and confederate forces it was 183,348." And he adds this pregnant reflection:

"This insecurity of life in the United States is but one indication of the lapse from civilization that the whole population is suffering, as a result of its government by criminals. The huge size of our machinery of justice is certainly due to the amount of crime it has to deal with. New York and Illinois have together a population under 14,000,000; these two states require 572 judges in their courts. England and Wales have a population of about 32,000,000; over this population there are 92 judges of the same general rank as that of the 572 who serve in New York and Illinois—that is, the two American states have about fourteen times as many judges in proportion to their population as England and Wales."

We call special attention to the phrase in the preceding paragraph, "government by criminals". It expresses a fact, and it is this fact that makes the problem of crime and criminals the very one that this nation must solve if it is to survive. For this republic is organized on the majority principle, and, however vicious may be the laws enacted, they become part of the nation's life when passed by the majority's representatives. If, by one means or another, this law-enacting majority is obtained by methods that give the criminal element control of the

situation the intelligent and upright minority will find itself ultimately forced to repudiate all such legislation, and there will be civil war.

Now, there is not the slightest question that it is the special business of the political machine to carry elections at all and any cost, and that in numerous cities, and those the largest in the land, the criminal class—including an enormous army that remains unconvicted but makes its living by pursuing essentially nefarious occupations—is utilized for this very purpose. In the article just referred to Mr. McClure examines in detail the cases of New York, Chicago and San Francisco, which he sums up with the following comment: “It is not necessary to go beyond the examples of these three well-known cities. The same political forces engaged in degrading civilization into barbarism are at work with general success in all the larger cities of the country. The fight against them is the greatest single governmental problem of today. As Bishop Potter well said, there is absolutely nothing on earth similar to the degraded rule in American cities. Many nations and cities have races of inferior breed or training among their population, but nowhere else is the control of the government taken over by criminals, organized to break the law, for the purpose of exploiting the appetite and criminal weaknesses of such populations for their own profit. In the meanwhile the stock of the immigrants entering the United States, and especially its cities, is growing constantly worse. Drawn first from the higher and more intelligent types of northwestern Europe, our immigration has degenerated constantly to the poorest breeds of the eastern and southern sec-

tions of the continent. We have made the United States an asylum for the oppressed and incompetent of all nations, and have put the government into the hands of the inmates of the asylum. We are now permitting the country to become the Botany Bay of the world. The most incompetent and vicious settle down in our great cities; and there an army of political criminals, like Tammany, trained by half a century of political crime, exploit and corrupt and degrade them, and with them our whole civilization."

It is a situation that must be bravely faced, but the foregoing passage omits what seems to us the most important factor in the problem. Taking social arrangements as they are today it never must be forgotten that politics, which to the ordinary citizen, occupied with his private affairs, are but a side issue, are to this vast army matter of life and death. In every campaign the very bread and butter of this army is at stake; let it lose the battle, and the immunity that victory insures, and it is out on the world, facing starvation. Soldiers so situated constitute the fiercest kind of fighting force, that will struggle with a tenacity of which the well-to-do citizen, who is not face to face with want, has no conception. In the final analysis, therefore, iniquitous social conditions, which deny opportunity to a large percentage of the population, are at the root of the evil. No deterrent policies can save, in the long run, such a situation.

Let us switch the glass north. From the *Chicago Daily News* we have clipped the following: "Not only are robberies increasing in number in Chicago, but the highwaymen are more bold and more desper-

ate than formerly, when they rarely resorted to violence. Today the robber's weapon is used to injure, maim and kill." And the latest figures in our possession show that in 1901 the burglars who committed murder numbered 193, whereas in the following year the total had grown to 338. Well may Judge McKenzie Cleland of the municipal court of Chicago remark that "human life is the cheapest thing in Chicago." Seeing which, as president of the criminal department in the toughest district in Chicago, he inaugurated a system of probation in lieu of punishment, with results that have secured the attention of the world and have led to the formation of the National Probation League.

Comparison of the records of New York and Chicago in the matter of crimes of violence was the subject of an exhaustive study in the *Review of Reviews* so recently as September, 1908, and it was shown that in the latter city crimes of violence are increasing out of all proportion to the growth of population, and that "this increase consists almost entirely of arrests for assaults with a deadly weapon and for assaults with intent to kill. There has been little or no increase in the proportion of arrests for burglary and robbery." But the lamentable feature is that it is demonstrated that this increase in Chicago has been no more rapid than that which has taken place in Philadelphia, Cincinnati and many other cities.

The homicide statistics for the larger cities show that Lexington, Ky., heads the list. Then come, in the order named, Kansas City, Kan.; Louisville, Ky.; Cincinnati, St. Louis, Mo. The next to these is San Francisco, with an average of 9.25 per 100,000 popu-

lation, and Los Angeles with 9. It is quite a drop to the much talked-of Chicago, which shows a percentage of 7.30.

Note the location of the cities that lead in crimes of violence. They belong to the convict camp south. The brutal administration of the criminal law in California for sixty years past has resulted finally in the formation of the Prison Reform League, which is issuing this book. Note, therefore, the unenviable position that California's two largest cities—San Francisco and Los Angeles—occupy as centers of crimes of violence. They are far worse than Chicago; yet the latter murders six times as many annually as does London, which is easily the world's metropolis.

A sporadic outburst of violence in London some years ago led to a movement in certain quarters for arming the police with revolvers. The entire British nation rose in revolt, declaring, with British common sense, that if the criminal knew he was in danger of being shot he would see to it that he himself was the first to shoot. This is exactly what happened about a year ago in Los Angeles, when Capt. Auble was killed. The revolver was knocked out of his hand and he himself was shot.

Apart from newspaper and magazine articles and the facts the Prison Reform League is laying before the public we have such volumes as "9009" and "The Turn of the Balance", written by thoroughly responsible men who have reputations at stake. The author of the latter is the mayor of Toledo, Ohio, and a national, if not an international, figure. Let anyone read such works and then ask himself whether, taking



the descriptions as true, he would not be likely to resist arrest and escape condemnation to such hells on earth as are many of our prisons, even at the cost of taking the arresting officer's life. Here you have the straight explanation of the observation that "today the robber's weapon is used to injure, maim and kill".

That they manage these things better in London appears certain from the following passage in the article by William McAdoo previously referred to. He says: "In New York at the present time (September, 1909) there is great agitation over the number of burglaries, and it will be exceedingly interesting to citizens to learn that in 1907, in London, in spite of the larger population as against New York, there were 547 burglaries and 1962 house-breakings. Violence to persons was used in only three cases of burglary and one case of house-breaking. I am sure it will astonish New Yorkers to know that there were only twelve cases of murder of persons of above one year of age in the metropolitan district of London for the year 1907."

The police are well aware that their lives are becoming more and more endangered, and they have agitated for legislative measures that shall make it more difficult for the ordinary citizen to obtain firearms. But apart from other serious and fundamental objections it is obvious that the proposed remedy is childish. The man who proposes to resort to violence will always get the means of doing so. If you succeed in putting the revolver beyond his reach he will use the knife; if that is impossible a stone or club will serve his purpose. To destroy life is the easiest thing in the world, and murder would be universal were it

not that there is a most powerful racial instinct that holds temptation in check. Those who advocate, support or tolerate the reign of violence, which receives its most striking modern exemplification in our treatment of criminals, are doing their part in killing that invaluable racial instinct.

Closely associated with crimes of violence perpetrated against others is the alarming growth of suicide, for both have their root in contempt for human life and happiness. We quote from Prof. Bushnell, previously referred to as high authority: "With our growing industrial disorder is associated a startling recent increase in crime and vice. Suicides have increased in the nineteen years, from 1889 to 1908, more than five times as fast as has the population. Murders and homicides, in the twenty years, between 1885 and 1904, have increased more than three times as fast as has the population. Their growth has been almost steady, showing it is not the result of accidental causes, but of some sinister evil in the nation, which is steadily working increasing wrong."

Suicide, insanity and alcoholism, all three abnormal pathological features of modern society, and as such intimately connected with crime, are dealt with exhaustively in the government report of December 3, 1902, referred to in our opening chapter. We devote a few paragraphs to the consideration of each, taking our facts and figures from that report.

In the matter of suicide California makes the worst showing, San Francisco heading the list with a rate of 297 to the million, the state as a whole coming second with 190. The figures for Los Angeles are

not given. Then follow St. Louis, 177; Chicago, 169; New York City, 149, and Boston, 120.

The *Chicago Tribune* figures show that in 1881 there were only 605 suicides in the United States. In 1903 there were 8597, or more than fourteen to one, as compared with twenty-three years ago. The tables show a steady increase from year to year.

The growth of insanity is prodigious, the figures, taken from the United States census, showing that within the thirty years from 1860 to 1890 the insane have increased in numbers from 765 to the million to 1697, and the feeble-minded from 602 to 1526—a most alarming exhibit.

In deaths by alcoholism New York City leads, with a rate of 211 to the million. Then come Boston, 180; San Francisco, 177, and the state of California as a whole, 143. No other states or cities get into double figures.

The report in question furnishes the foregoing statistics in connection with a review of the evil effects of the condensation of the population in large cities, and the allegation is made that education, formerly looked to as the universal panacea, has proved a broken reed. "If we take in our own country," says the report, "the group of states that show the greatest education and intelligence, as the North Atlantic, North Central and Western, we find that they also exceed in patho-social evils, as insanity, suicide, nervous diseases, juvenile criminals and almshouse paupers." On the other hand, much stress is laid on the rush of modern civilization, the criticism being that "when the nerves are unstrung by over-pressure the will may become weak, depression and pessimism set

in and loss of self-control follow, with its subsequent abnormal actions, leading on to crime and other social evils." The entire treatment of the subject in this report is saturated with the thought peculiar to the modern school of criminology, and it is evident that such conditions as those presented are not to be met satisfactorily by the drastic measures in use among prison guards. The strain incidental to modern commercial life is also emphasized as one of the leading causes of crime and its kindred abnormalities.

But we can go, and with perfect safety, much farther than this, and show that it is precisely in those sections of the country in which the most implicit reliance is placed on brutality and deterrence, pure and simple, that crimes of violence flourish with the rankest growth. Taking the murder figures given in the earlier portion of this chapter for the South, the great central division of the country and the densely populated manufacturing districts of New England, it will be seen that where serious efforts have been made to mitigate the severities of the criminal law there violence is at the lowest ebb, and that where the philosophy of deterrence reigns undisputed, as in the South, homicide is most frequent. Thus is given a self-convincing demonstration of the philosophic truth that here, as everywhere, the law of inheritance is omnipotent, like begetting like and violence a progeny of violence—the vital truth on which the whole structure of modern criminology rests.

Everywhere the unanswerable argument of facts will be found, on close investigation, to support the principle laid down in the last paragraph, but perhaps the amplest confirmation is afforded by the history of

capital punishment and lynchings. It has been the invariable cry of those who favored the retention of the death penalty that, if it were abolished, the people themselves would impose it. "If this opinion be correct, as numerous writers aver," says C. B. Galbreath, state librarian of Ohio, in his treatise entitled "Shall the State Kill?" we shall, of course, find the majority of lynchings in the states that have abolished the death penalty. What are the facts? In the last fifteen years (the treatise was published in 1906) two of these states have not had a single lynching. Of the others, one has had two lynchings and the other four, while Georgia, the state that leads all others, with 172 executions, also stands second, with 237 lynchings. Texas follows with 140 executions and 183 lynchings. Alabama almost duplicates the record, with 119 executions and 206 lynchings; while Mississippi, which falls a little behind, with 97 executions, leads all the states with 249 lynchings. Of 1900 executions and 2240 lynchings in the United States in the last fifteen years, twelve states, with less than one-third of the total population, performed 1090 executions and 1747 of the lynchings. Almost without exception executions and lynchings go hand in hand. This fact, that 'he who runs may read', should dispose forever of the excuse that the state must execute to prevent the people from taking the law into their own hands." And the same writer, toward the close of his treatise, makes the following comment:

"It is becoming somewhat the vogue to out-Winkle Rip Van Winkle ten times over, and after a rub of the eyes to declare that this shall be New England, in





### THE WATER CURE.

The prisoner endures all the agonies of strangulation, and frequently succumbs. See page 45.



the days of the pillory, the stocks and the lash. Quite recently, when some of us were on our way to the conference, John Temple Graves, in his characteristically fervid eloquence, called for the revival of the branding iron as an instrument of punishment. Only a short time ago, not far from this place (Mountain Lake Park, Maryland), Secretary Bonaparte proposed to cure anarchy by a more general application of the death penalty and the rehabilitation of the whipping post. Murder at the hands of the anarchist is a most deplorable crime, and in this country without the shadow of excuse. In every civilized nation the penalty is death, swift and sure. But the fact remains that the penalty does not prevent the recurrence of the crime."

Testimony of a similar character is borne by George P. Upton, in an article entitled "Facts About Lynching", published in the *Independent*, Sept. 29, 1904. Mr. Upton, as associate editor of the *Chicago Tribune*, for years gathered and recorded the elaborate statistics that paper publishes the first of each year. He shows that in the period of nineteen years from 1885 to 1903 there were 2875 lynchings, distributed thus: South, 2499; West, 312; Pacific slope, 63; East, 11. Six times as many lynchings in the South as in all the rest of the country!

Mr. Upton further takes occasion to punctuate the general fallacy that the majority of these southern lynchings are for criminal assaults on women, showing that, within the given period, only 564 were lynched for that crime as against 1099 for murder. And he makes the following highly suggestive remark: "The claim, therefore, that lynching is the

summary punishment for a single crime is not only misleading, but dishonest. If any crime can be called 'usual' it is murder. Startling as it may seem, statistics will show that murder is the national crime."

In subsequent chapters we shall consider at some length probation, the indeterminate sentence and other reform measures that have been and are being adopted by various states, and in the following grouping allusion is made to them for the first time for the sake of comparative classification. The object of such grouping and classification is to show that crime, and especially crimes of violence, thrives on brutal treatment and diminishes in virulence when dealt with in a more intelligent and civilized manner.

The type of the old régime is represented in its purest form by those states that have no reformatories, impose only definite sentences, leave the granting of paroles, if granted at all, to the governor and do nothing for the discharged convict. Examining the records and drawing largely on the report of the National Prison Association committee on discharged prisoners, prepared by Amos W. Butler and published in 1903, we find the following southern states in this class: Alabama, Arkansas, Georgia, Louisiana, Maryland, New Mexico, Mississippi, Tennessee, North and South Carolina and Texas.

Maryland is perhaps entitled to be taken out of this class by the fact that paroles are frequently granted by judges on suspension of sentence at the time of trial, but Maryland has been under the civilizing influence of the Maryland Prisoners' Aid Association, and the Maryland prison conference of January, 1907, although it took no definite action, discussed and re-

viewed favorably the indeterminate sentence. In other words, thanks to individual efforts, thought has begun to stir in Maryland, and with some result.

Missouri also would belong to this class but for the fact that she adopted in 1907, with certain limitations, the parole system. She has no reformatory and her penitentiary has been the subject of constant and most drastic criticism. Fortunately she has among her citizens men of the Arthur N. Sager type, and what they think of their state's penal institutions may be judged from the fact that Judge Sager told the National Prison Association congress of 1907 that "it might fitly be written above the portals of the grim pile of steel and masonry at Jefferson City, 'All hope abandon, ye who enter here'." Gov. Hadley has spoken of it as more characteristic of the middle ages than of the twentieth century, thereby indorsing the repeated condemnations passed by former Warden Hall.

Most of the names given above figured largely in our chapter on southern convict camps. Florida, which was repeatedly alluded to, is still in the elementary class, having no arrangements for probation, and in Delaware, another southern state, the whipping post has proved so brutal that the former warden of Wilmington penitentiary resigned rather than continue inflicting the torture.

It is no mere coincidence that the very section of the country which has revived in its convict camps peonage of a most barbarous type is also that which has taken no pains to modify its antiquated, distinctively punitive methods of dealing with crime, and that in which murder flourishes with the rankest

growth. Occasional voices break the silence with indignant protests, but as a whole the South contributes little to the vast literature that has formed elsewhere and is pleading eloquently for a more scientific, rational and humane treatment of crime and criminals. On this great question it is still asleep.

Unfortunately other states are found in this primitive class, and it is to be noted that they are the very ones in which it is proverbial that life is cheap. They represent territory lately settled, where everything has been in the rough and men have been mainly intent on speculation and the rapid acquisition of fortunes. Arizona, for instance, seems to have adopted as yet none of the modern changes, but it is to be said that in the west there is, at least, much discussion of the subject and that the American Prison Association selected Seattle for its 1909 congress.

Next to the primitive class described above comes one in which some attention is given to the subject of parole, since its grant is made the business of a special board, acting usually with the approval of the governor of the state. Nevada, Idaho, North Dakota and Utah are in this class, as are also the southern states of Kentucky, Virginia and West Virginia. California has emerged from it only recently, having adopted the probation principle in 1903 and made provision at the last session of her legislature for the employment of discharged convicts. The parole privilege also was extended to recidivists.

One of the incongruities that have marked the progress of prison reform is the fact that Rhode Island, though belonging geographically to the advanced New England group, still lingers in this back-

ward class. It was, however, one of the first states to abolish capital punishment. Maine also occupies a peculiar position. Although it did away with the death penalty years ago it still clings to the penitentiary and the definite sentence, and has adopted the probation system in only one county. The political conditions of both states are peculiar.

In reality the adoption of the indeterminate sentence, under which the convict is released when it is deemed safe to release him, is the crucial test of the advance made by a state along the lines of modern thought, for the advocacy of the indeterminate sentence proceeds invariably along the lines that the business of the state is not to revenge, but to protect itself, while endeavoring to bring about such reform of the individual as shall cause him to leave his place of detention a better man than when he entered it. A system of probation cannot be operated successfully, it is true, without the application of the indeterminate sentence, but the basic fact is that the state which declares for the indeterminate sentence thereby announces to the world that it has abandoned the time-honored philosophy of revenge as futile and out of date. To be logical it should immediately follow the lead of the five states that have abolished capital punishment.

What we desire to emphasize, as a matter of the first importance, is the fact that the states that for years past have occupied the most advanced position, and are endeavoring to divorce themselves from revenge and devote themselves to protection and reform, are those that figure in the official returns as freest from murder and crimes of violence. They

are the states of the central division and New England, to which must be added, despite the notoriously corrupt government of the metropolis, the name of New York. These are also the states that are putting out more and more a literature that teems with facts and arguments in favor of the modern and scientific school.

New York and Chicago are the two largest cities in the country, with a most cosmopolitan population, a large percentage of which is always on the ragged edge of destitution. Nine persons out of ten would guess that they lead in the statistics of homicide, but we have shown that the first five in the list are all southern cities, and that then come San Francisco and Los Angeles, the two leading cities of California, a state notorious for the severity with which it has punished crime in such penitentiaries as San Quentin and Folsom.

Both the states of New York and Illinois doubtless saved themselves from being at the head of the column by the prison reforms they introduced. New York was the first state in the union to enact the indeterminate sentence, and the probation system there has been in the most extensive vogue. It has established reformatories and has endeavored constantly to keep abreast with modern thought, as is shown by the fact that it has now under consideration, largely at the instance of the Women's Prison Association, the segregation of habitual offenders and the treatment, under indeterminate sentences, of chronic drunkards, for whose permanent cure short sentences and ordinary prison conditions are entirely ineffectual.



Similarly in Chicago, and especially since the administration of the late Gov. Altgeld, who was an untiring worker along these lines, there has been a constant striving for improved methods. All Illinois' penal institutions work under the indeterminate sentence, and remarkable results have been achieved in the municipality court of Chicago by McKenzie Cleland. Illinois, which has taken the lead in the formation of a national probation league, is apparently on the verge of following her philosophy to its logical conclusion and abolishing capital punishment.

Michigan, Wisconsin and Kansas have all proved true to the instinct that prompted them to abolish capital punishment and have established various reform institutions, but it is to be regretted that the first named has not yet adopted the indeterminate sentence as the others have done, with respect at least to their reformatories.

Indiana, which has had the indeterminate sentence plan some twelve years, boasts a fine prison-reform record, and was able to show recently, as the result of eleven years, that 3983 prisoners had been paroled and that only 25 per cent. had violated their pledges. The paroled men had earned an average of \$271 during the time they were being tested on parole, but the official report from which these figures are taken remarks that "all of them had received much training, and they were released under conditions that imposed honest, law-abiding lives for a period of at least one year." Apparently there has been genuine effort to improve the condition of the convict. Indiana also has been the first to come to the front with plans for the protection of female delinquents, previously con-

financed in the much criticised county jails, a special training institution for them having been opened February, 1908, and being managed entirely by women. The state can point to a large and active body of noted prison reformers, including the late governor, who entered office opposed to the indeterminate sentence, but later became its strongest advocate.

Allusion has been made to the work done in Ohio by such men as Brand Whitlock, mayor of Toledo and author of "The Turn of the Balance", Frederick Kohler, chief of police in Cleveland, and others, among whom the late "Golden Rule" Jones should not be forgotten. In Ohio there is a strong movement against capital punishment, and she appears to have set her face steadily toward prison reform. She belongs to the tier of central states.

In New England, Massachusetts long ago set a strong lead, and the work of the Massachusetts Prison Association, with a large list of active and capable members, is well known. Connecticut also belongs to the most advanced group, except for the fact that, like Massachusetts, she has retained the death penalty. She has had the indeterminate sentence since 1901; paroles are granted by a board; in her penitentiary at Wethersfield only one prisoner is allowed in a cell, and the state makes some effort to find work for discharged convicts, although it is understood that most of this is done by the Connecticut Prison Association. Hitherto, it is true, she has had no reformatory, but the last session of the legislature passed an act providing one for first offenders between the ages of 16 and 25 years, and appropriating \$400,000 for the erection of the necessary building.

So one might go through the list of states in the central and New England sections of the country, showing that invariably those which have exhibited the most marked tendency to separate themselves from the old philosophy of revenge and deterrence are precisely those which have made the greatest advance in the struggle with the problem of crime, and especially crimes of violence.

Does not our common sense tell us that it could not be otherwise? Does not it tell us that to degrade a man habitually, to torture and tyrannize over him by a thousand and one autocratic rules, to thrust him out at the end of his term economically helpless and with an inexpressible bitterness in his soul; then to hound him incessantly, standing ever ready to arrest him, gun in hand — does not the most ordinary common sense tell us that this is to turn him into a ferocious beast of prey, who, knowing only too well the hell that awaits him should he be sent back to jail, will commit murder remorselessly in order to destroy the evidence or avoid arrest?

Humanity is being compelled to find some better way, and happily the road has been opened by the researches of the scientific school, whose work will now command our attention.

## CHAPTER XII.

### PROBATION, PAROLE AND THE INDETERMINATE SENTENCE

Mankind learns only by experience, moving when it is forced to move. The first to break the way are necessarily the most sensitive, who feel most keenly the suffering caused by social mal-adjustments. In the earlier stage men of the John Howard type, whose sympathies will not permit them to keep silence; in the later stage those whose intellects revolt against conditions fatal to life and incompatible with civilization. Seekers after truth; devotees of the logic of facts; the scientific school.

Nothing comes into existence until the time for it is ripe. Scientific criminology could be born only after a preliminary science, that of statistics, had been developed. For, while it is obvious that human conduct must be influenced immensely by physical and social environment — climate, laws, religious beliefs, economic conditions, and so forth — it is also obvious that we cannot judge the comparative importance of these various influences until facts have been ascertained and statistically collated. This holds good in all branches of inquiry, and in criminology it is generally admitted that the work began with the observations and statistical compilations of English surgeons, who were men of science rather than politicians. To the statistical information bearing on the climatic and social causes of crime science added the results of its researches in biology and psychology, thus laying, as

it claims, at least the basis of a positive science of criminology.

The individual commits a crime. Why? This is the question that the deterrent school never has troubled itself to ask. The arresting officer, the judge who passes sentence and the wardens and jailers who carry out its execution recognize only the one fact that a crime has been committed and must be punished. It is true that an individual judge may take into consideration the prisoner's antecedents and temptations, and that judges are doing this today with increasing frequency. But in so doing they themselves pay tribute to the power of modern scientific thought, since they thereby turn their backs on the deterrent philosophy and move into the camp of the scientists, who insist that this question 'Why' is the one of all others that must be asked and fully answered. For the problem of crime, like every other, can be solved, but only when we know its causes. Furthermore, it is only when that knowledge has been gained that it will be possible for us to mete out anything deserving the name of justice.

"It is impossible", says Enrico Ferri in his "Criminal Sociology", "to give a scientific explanation of a crime (or indeed of any other action of man or brute) unless it is considered as the product of a particular organic and physical constitution, acting in a particular physical and social environment." We are all the products of environment, past and present; of the individual organism, effective or defective, inherited from our ancestors, and of the action of the present environment on that organism. In this environment—past and present—are to be found the roots of crime, as of all other human activities; and scien-

tific criminology is the study of the comparative influence of yesterday and today. Many crimes, and especially those of a sexual character, are due directly to physical malformations, inherited from diseased parents. The unfortunates who commit such crimes are "defectives", against whom society may justly protect itself, but whom it cannot justly punish. Other crimes, and those by far the most numerous, are the direct outcome of a present social environment that lends itself to the creation of that particular class of offense. Petty larceny abounds when times are hard. Remove the causes that begot the hard times and there will be an immediate falling off in the volume of that particular crime.

The scientific school, therefore, traces the origin of crime both to the individual organism and to the physical and social environment acting on that organism. It does not cast the entire blame for crime on present social arrangements. Poverty, for example, has much to do with crime, but not everything. Just as Charles Darwin was careful to point out that in the struggle for existence the inherited organic structure was the most potent of all factors, so criminological science notes the fact that there is such a being as "the criminal man", the abnormal defective whose instincts are anti-social. Every scientific work on criminology emphasizes this and buttresses the assertion with elaborate proof.

It is, we think, a fair statement of the case to say that the modern school of scientific criminology discriminates between (1) the born criminal, whose tendencies are naturally anti-social and with whom relapse is the rule rather than the exception; (2) the criminal by contracted habit, embracing that large class



with which the power of resisting temptation is defective and which degenerates after having been in jail; (3) the criminal of passion, who, although otherwise normal, is the victim of neurotic weakness; and (4) the occasional criminal, whose fall is due rather to external causes than to internal tendencies.

This was practically the position of the celebrated criminologist, Cesare Lombroso, whose recent death has led to an increased discussion of the teachings with which his name was prominently associated. In our judgment his position was much misunderstood, the superficial view prevailing in many quarters that in calling attention to the essentially criminal man he pronounced a hard and inhuman verdict. We believe that nothing could be further from the truth, his opinions, like those of the entire school to which he belonged, being in reality distinguished by their kindly sympathy. For Lombroso's message was that moral defectives are a social product, and that, as one critic, Mr. Charles Ferguson, has expressed it, "no man can be bad without a bad backing." While, in common with all the modern physiologists, he attached great importance to the study of skull formations as indicative of brain power, a defective cranium was not in his opinion a fault for which its owner should be punished, but a misfortune entitling him to extra consideration at the hands of society; and he held emphatically that society would find its true salvation not in taking revenge on its enemies but in bringing about conditions that would convert them into friends. It may be added that in his later years he inclined to the belief that he had over-rated the importance of craniology and under-rated that of unfavorable surroundings. In any event the Darwinian position that

inherited structure, favorable or unfavorable, is a factor of tremendous importance remains unassailable, and must be accorded its full weight in any system of criminology that claims to be scientific.

It will be observed that this is not a sentimental view, or one that lends itself to gushing generalizations. On the contrary, it professes to be something of far greater value — an approximation, at least, to the truth, founded on facts carefully investigated. But it will be observed also that, whether the cause that led to crime was individual weakness of will or physical malformation, or whether it was that general economic ignorance which plunges us, for example, periodically into panics and brings thousands to starvation, the act was the inevitable result of environment — past or present. Now it is absurd to take revenge on or punish what was inevitable, and it is the part of wisdom to guard against it and, if possible, remove the causes that insure its endless repetition.

This, in a nutshell, is the position of the scientific, protective and preventive school, as opposed to the deterrent, punitive philosophy which still, most unhappily, dominates the situation. With this clearly comprehended it will be possible for us to consider intelligently the subjects of probation, the indeterminate sentence, the treatment of juvenile delinquents and other innovations that the modern school has succeeded in introducing. For their adoption is due both to the intrinsic power of the great argument we have summarized so briefly, and to the rapidly crystalizing sentiment that it is ridiculous to punish the individual vindictively for doing what, by the nature of things, he could not help doing. It is due to a growing realization of the profound truth of Renan's

favorite saying, that "to understand all is to pardon all"; to a general rejection of the doctrine of original sin and a conviction that the teachings of the evolutionary school, which permeate all modern thought, bear us irresistibly to the conclusion that the capacities for good latent in every human being are infinite, if only we have the wit to develop them.

Thus around the forlorn figure of the convict swirls the battle for the emancipation of human thought.

Here, for example, is the president of the Chaplains' Association speaking at the remarkable congress of the American Prison Association, held in Chicago less than two years ago—a congress attended by many of the leading wardens of the country. He asks this pointed question: "What's in a prison that it should reform man? They are received, photographed, stripped, clipped, anointed, measured, numbered, tabulated by size, shape, scars, color, marks, moles and the unchanging papillary ridges of the finger tips. Arrayed in prison garb they are counted, marched, worked, watched whether awake or asleep, hustled along by keepers, lied about by fellow-convicts, forgotten by their friends, kept in silence and leading strings till they lose the power of initiative and forget the usages of the world."

Or take an address by Judge Arthur N. Sager of St. Louis, made at the same congress, in which, speaking of the penitentiary at Jefferson City, he says: "We know that when the convict leaves these walls his picture, description and record will be catalogued in all the great cities of the land; that the trained sleuths of the law are constantly on the alert to pick him up, interrogate and inform upon him; that he is as timid and helpless as a bird just released from the

cage; that he feels that every man who looks him in the face reads his prison number and record. We know, if his family is gone, his home destroyed and his friends have forgotten him, he is as a wild beast — hunted, feared and despised."

When such thoughts make their way into any considerable number of minds they are bound to ripen into action. One of these forms of action, the adult probation law, we shall now consider.

Massachusetts was distinctly the pioneer, having taken action as far back as 1878. Then came a long pause that lasted until 1900, when Vermont and New Jersey followed suit. After which came New York in 1901, California and Michigan in 1903, Maine (one county only) in 1905, Missouri (only for those between nineteen and twenty-five years of age) in 1906, Ohio in 1907, Indiana in 1908 and Connecticut in 1909. The organ of the National Probation League, organized in Chicago, December 15, 1908, announces that similar laws probably will be passed in Illinois, Minnesota, Wisconsin and other states this winter.

It should be added that thirty states and the District of Columbia have juvenile probation laws, legislatures having shown a far greater readiness to apply this sensible and humane system to the youthful than to the adult offender — a striking example of the muddy thought that apparently reigns supreme when the question of crime and criminals is under examination.

For those who have made a special study of this subject are a unit in holding that if there is one good reason why a lad should be placed on probation, there are a dozen for avoiding, if it is possible to do so, the

locking up of the father on whom, probably, he, his brothers and sisters and his mother are dependent; since the cause of juvenile delinquency is most commonly parental neglect, which imprisonment of the family bread-winner only intensifies; and the earning capacity of the adult is larger than that of the youth, so that the community is by that much the loser when the state forces the adult into compulsory idleness. As Judge Cleland of the municipal court of Chicago puts it: "If an ex-convict has a family, he returns from prison to find them impoverished, shunned by their neighbors, his children scorned and sneered at by their schoolmates — everything worse, more helpless, than when he left them." Thus the advocates of adult probation are in the habit of urging it even more for the sake of the offender's family than for that of the offender himself.

In direct line with this thought was the action taken by the District of Columbia, which passed a law, March 23, 1906, providing for the payment of 50 cents a day to the families of men under workhouse sentence for non-support. The record for the year ending June 30, 1909, shows that during that period the superintendent paid to families of prisoners \$2340, but the principle established received a far wider extension under the management of Judge William H. De Lacy of the Juvenile Court. In the various domestic difficulties brought before him he quickly made it understood that husbands and fathers who failed to support their families would be sent to the workhouse, and the report for the period just mentioned gives \$38,319.65 as the sum distributed through his agency to various families.



The federal government still lags conspicuously in the rear, having no probation law for either juveniles or adults, and in the same class stand the following states: Arkansas, Delaware, Florida, Georgia (except the city of Atlanta), Maine (except Cumberland county), Mississippi, Nevada, North Carolina, North and South Dakota, Oklahoma, South Carolina, West Virginia and Wyoming. In previous chapters we have commented on the brutal methods of treating crime that still mark the south, instancing, in particular, the atrocities of the convict camps. The preponderance of southern states in the foregoing list will strike the most superficial reader.

What is the principle that underlies all probation laws? Simply that which is the basis of the entire national movement set on foot by the Prison Reform League—that the philosophy of revenge has been proved inefficacious and is, therefore, out of date, and that society profits more by reforming than by punishing the offender. The prisoner is given a chance. He is told by the court that his future fate rests with himself. If the probation officer reports that he is behaving himself, and, especially that he is abstaining from drink, or whatever may have been the special vice that brought him into trouble, he is left unmolested, and finally procures complete discharge. Thus, instead of being stained and incapacitated by serving a term in prison, he is put on his mettle with every imaginable inducement to do his best; instead of the taxpayer having to support him in his compulsory idleness, and the community being deprived of the addition to its sum of wealth which his labor would produce, he is placed in conditions where he has all



the incentive in the world to hunt a job and to hold it when found.

It looks like a good scheme, but has it worked? Let us cross-examine those who have been in a position to discover. Judge Cleland is a first-rate authority, since he presided for thirteen months over the Maxwell street criminal branch of the municipal court of Chicago, a district which has been described in *McClure's Magazine* as follows: "In this territory murderers, robbers and thieves of the worst kind are born, reared and grow to maturity in numbers which exceed the record of any similar district anywhere on the face of the globe. Murders by the score, shooting and stabbing affrays by the hundred, assaults, burglaries and robberies by the thousand—such is the crime record each year for this festering place of evil which lies a scant mile from the heart of Chicago."

The judge tells us that when he took charge he found that an immense proportion of those brought before him were "repeaters"—persons who had been sentenced again and again. He says that of 9000 imprisoned during the previous year, having been unable to pay the fines imposed, nearly one-half had been there all the way from twice to two hundred and one times. He counted eighteen women, each of whom had served 100 terms. After dwelling on the awful poverty that was the marked characteristic of the district, and the fact that its inhabitants universally regarded the law as a juggernaut, he makes the following comment: "In substantially every case that I investigated I found that, notwithstanding the efficient management of our workhouse, the offender had come out a less desirable member of society than when he went in; his employment was gone, his rep-

utation was injured, his will weakened, his knowledge of crime and criminal practices greatly increased. As one young girl expressed it, 'It is not a house of correction, but a house of corruption'."

Illinois had no probation law,; there were no paid probation officers and the judge had to devise his own methods and provide his own machinery. He at once made an innovation by holding night sessions and adopted the following plan: On the prisoner pleading guilty he was given the maximum sentence, but it was immediately suspended on the accused pledging himself to go to work and to refrain from the special vice that was admitted as the chief cause of his trouble. Reports were made at regular intervals, the released prisoner bringing with him his wife or other witness to testify to his good conduct.

During the thirteen months in which Judge Cleland presided in Maxwell street he tried more than 8000 cases, in 1231 of which the prisoner was placed on probation, and he records that 92 per cent. were faithful to their pledges. Summing up his experience the judge says: "That many, perhaps a majority, of criminals can be wholly reformed without imprisonment through the means of suspended sentence, with little or no expense to the state, I am satisfied beyond a doubt; and this will be done when we can eliminate from the treatment of criminals the desire for revenge and look only to the good of the individual and of society."

It should be added that, as the numbers of those released on probation increased, it became impossible for Judge Cleland to keep personal track of them, and it was necessary to call for volunteer probation offi-

cers. One hundred business and professional men responded and took on themselves the duty of visiting the released men monthly, reporting on regular blanks. This number was subsequently increased to about 400. It may be further remarked that when he entered on his duties Judge Cleland had to face the opposition of the 400 liquor dealers of the district, who were much prejudiced against him on account of his record as a total abstainer, but that these subsequently became his warmest supporters and pledged him their unanimous support.

One demonstration so complete is worth a ton of abstract argument, but the experience testified to by Judge Cleland could be duplicated from many other points. For example, Judge Sager of St. Louis, previously referred to, states emphatically that if the courts grant probation without bias or prejudice "they will work more for good and humanity than all the penitentiaries that blot the land". He cites numerous instances from his own experience where the offense was of an aggravated kind, yet the eventual outcome fully justified the merciful course pursued. On one of these, in which the charge was embezzlement, he makes this comment: "I might add that this case is unique in the fact that the detective department, which usually pursues this class unrelentingly, was in sympathy with the defendant." The comment will be found applicable to many cities besides St. Louis.

Despite the remarkable demonstration of the beneficent effects of probation made by many states — notably New York, Massachusetts, Illinois and, more re-

cently, California — many prison and reformatory officials apparently still preserve a critical and hostile attitude. Thus Homer Folks, president of the Probation Commission of New York, reported at the 1907 congress of the American Prison Association as follows: "I find an increasing tendency on the part of some such officials to doubt the wisdom of probation work; to complain that the numbers who come to their care are far fewer than formerly, but that they come at a later and a lower stage, when their reform is less hopeful." In answer to this criticism it may be pointed out, as we think, with fairness that prison officials as a class rest generally under the imputation of being anxious to swell the numbers of those brought under their care, and it appears to us that the statement that such numbers are "far fewer than formerly" is itself strong testimony in favor of probation. It well may be that those who find their way into prison again represent a comparatively hopeless class, under existing conditions, and the existence of such a class is admitted freely. But that there are vast numbers who do not return is surely an inestimable gain both to the individual and society. The plea that the reformation of those who do come back is more difficult comes with a bad grace from institutions in which, as a whole, the entire course of treatment tends not to the elevation, but the degradation of the inmates.

Under probation, as has been explained, judgment is suspended, the prisoner is spared the stigma of a sentence and is given a chance of retrieving himself. It must be distinguished, therefore, from the granting of parole to a prisoner who has served a portion of

his sentence, and whose good conduct has been such as apparently to warrant the officials in restoring him his liberty, subject to certain stipulations, as that he shall be under the eye of the probation officer, shall report regularly, and so forth. The granting of paroles is, however, so closely akin to probation, and is so obviously an application of the modern philosophy that detention should be solely for the protection of society, that the subject may be fittingly considered at this point.

In the sixty-third annual report of the Prison Association of New York special attention is paid to the generous policy adopted toward prisoners in Cleveland, O., subsequent to the election of Tom Johnson as mayor, the report stating that "eleven hundred and sixty men were released during the first two years as against eighty-four during the previous administration. Not more than 14 per cent. of the parole men have come back." We allude further to this particular instance in Chapter XIV, wherein the Cleveland Farm Colony is discussed.

In this same report considerable attention is paid to the Elmira reformatory, N. Y., the charge having been made that the institution's returns on the behavior of those released on parole had been unduly sanguine. The officials declared that they had made additional and careful investigation and had come to the conclusion that "probably not over 70 per cent. of the Elmira paroled men during the last year should be classed with the reformed." The falling off from the previously higher standard was attributed to the depression following the panic of 1907, and the report appended the following reflections:

“ May we not also infer that the scandal wave in the world of high finance had its effect on the operators in the lower stratum of society? They read how this smart crook looted a railroad; another an insurance company; another a bank — how a whole gang of men in the guise of contractors picked the city's pockets out of hundreds of thousands of dollars, and yet were never rounded up by the police. How can the Elmira boy help reasoning that ‘flim-flam’ games and pocket picking are not only lucrative, but safe and respectable, if done on a grand scale? ”

At the date of this writing the California papers are noting the good record being made by those released on parole from San Quentin and Folsom. As the result of the persistent agitation kept up by reformers a far more generous policy has been pursued there of late than prevailed in the past, the figures showing that since December, 1907, more than five hundred have been given their freedom on parole, whereas in the fourteen years previous the annual average had been only thirteen. The closing sentences of this book will show how unsatisfactory the conditions that surround the granting of parole still are. However, according to a special dispatch to the *Los Angeles Times*, bearing date September 24, 1909, there were, at the beginning of the month of August, 273 prisoners out on parole from Folsom and San Quentin. During the month only five violated their parole, and four of these were back in prison. Only one man out of the entire number was out of employment at the end of the month, and during the month the paroled prisoners had earned a total of \$11,936, out of which they had saved \$3838.



In connection with this question of earning capacity it may be stated here that at the last session of the legislature a bill was passed, thanks to the unremitting efforts of the secretary and treasurer of the Prison Reform League, making an annual appropriation of \$4000 to be devoted to finding employment for discharged convicts.

It should be added also that there is another unsatisfactory feature connected with the granting of paroles, and one that there seems little prospect of removing so long as convicts are at the mercy of wardens and guards appointed, as at present, exclusively through political influence. We can give from our own personal knowledge more than one instance of a prisoner who, though having every right to immediate release on parole, was detained in the penitentiary because his special abilities made him of exceptional use to the institution. Thus merit is punished with additional imprisonment.

The preceding chapters of this book will have been written in vain if they have not succeeded in convincing the reader that the philosophy of punishment, based on vengeance and the deterrent principle, has failed utterly to produce the beneficent results promised by its adherents. On the other hand it is submitted that the modern philosophy of giving the offender a chance, as represented by the probation principle—and its subsidiary development, the release on parole of those whose conduct has been such as to inspire confidence—from the very outset have more than warranted the assurances held out by the modern school.

Closely interwoven with the release of prisoners on probation — and indeed, in our judgment, necessary to it — is the “indeterminate sentence”, whereby the period of incarceration depends on the prisoner’s conduct while under restraint. It represents a revolt against the despotic powers at present lodged in the hands of the trial judge, which, we think, can be pictured no better than by the reproduction of the following passage from Brand Whitlock’s “Turn of the Balance”.

“‘You impress the court as a man who has abandoned himself to a life of crime, and the court feels that you should receive a sentence in this instance that will serve as a warning to you and to others. The sentence of the court is ’” — McWhorter paused as if to balance the scales of justice with all nicety, and then he looked away. He did not know exactly how many years in prison would expiate Delaney’s crime; there was, of course, no way for him to tell. He thought first of the number ten, then of the number five, then, as the saying is, he split the difference. These proceedings were repeated again and again. McWhorter twirled his gold glasses, looked out of the window, made his little speech, guessed and pronounced sentence.” The court was “impressed”; the court “did not know exactly”; the court “split the difference”; the court “guessed and pronounced sentence”.

Anyone who takes the trouble to think will see at once that this is playing pitch and toss with human liberty, and that only by the happiest of flukes can equity thus be meted out. Moreover, it is obvious that Mr. Whitlock has not told one-quarter of the

story. He might have shown that while one judge was of a philosophic mind and disposed to view crime as a social disease, another occupied the ancient standpoint and regarded each act as one of individual malevolence, to be punished and avenged. He might have shown how in an age when opinion is largely in the making the prisoner's fate depends on the particular school of thought to which his honor happens to belong. He might have dilated on the condition of the court's stomach, its prejudices, its subserviency to political interests and a hundred and one motives that make the prisoner at the bar the sport of circumstances over which he can have no control. All of which is most unsatisfactory to whoever prizes justice, and fills the heart of the condemned with a bitterness for which there is no sweetening.

The modern school of penology, therefore, urges that the present method of imposing sentences is, at the best, happy-go-lucky; that it is utterly unscientific; that it had its rise in the days of one-man power and is saturated with the spirit of autocracy, and that it looks only to the punishment of individual crimes, instead of justice and the reformation of the individual criminal. In the indeterminate sentence it conceives that it is advocating a system under which each offender would be made the arbiter of his own destiny, the question of the date at which he shall be restored to liberty being determined by his own conduct while under constraint. It claims that the decision should rest in each case not with a judge who has to guess on the spur of the moment, but with a regularly organized board, able to act with deliberation and justice, since it would have spread before it the

record prior to conviction and full data as to the prisoner's conduct throughout his incarceration. Regarding imprisonment as for the protection of society, it maintains that a board so constituted would be able to gauge with an accuracy that the best of individual judges cannot hope to attain the date at which the criminal may be restored to liberty with safety to his fellow-men.

In a bill introduced at the 1908-1909 session of the California legislature, and having for its object the conversion of San Quentin into a reformatory, Col. Griffith J. Griffith, the secretary and treasurer of the California branch of the Prison Reform League, endeavored to procure the adoption of the indeterminate sentence. In January, 1909, he submitted to the governor of the state a lengthy argument in favor of the proposed change, in the course of which he showed that it was then in use in the following fifteen states: Iowa, Pennsylvania, Wisconsin, Connecticut, New Hampshire, Colorado, Illinois, Indiana, Kansas, Massachusetts, Michigan, Minnesota, New Jersey, New York and Ohio. In Connecticut and New Hampshire it applies to state prisons alone, while Wisconsin and Pennsylvania make it applicable only to their reformatories. In all the other states mentioned it applies to the inmates of both state prisons and reformatories. There follows this explanation:

“The indeterminate sentence plan embodies as one of its basic principles that the individual offender, and not the crime, shall finally determine the length of confinement or detention that is necessary to reform him. The principles involved in the indeterminate sentence and the parole system are logically one and

the same, and are inseparable. Probation or parole cannot be scientifically applied to the convicted person, except through the indeterminate sentence."

The last reflection would seem to be sufficiently obvious. It is charged against the existing usage that the sentences passed are of necessity largely guess-work. The convicted man is given at haphazard so many years, and after a certain proportion of them has been passed within the prison walls, he may obtain his parole, provided he has not been guilty of any serious infraction of the rules. No adequate standard of conduct has been exacted; no certain answer can be given to the question, "Is it safe to give this man his liberty?" The old hit or miss want of system prevails, with infinite injustice both to the convict and to society.

Some of us may be able to remember being locked in the cupboard "until we were good." As a punishment it may not have been the wisest in the world, but it carried the condition that with the assurance of satisfactory conduct would come release. This would seem to be a sound principle. Is it beyond the reach of human ingenuity to work it into practice?

The parole commissioners have infinitely greater opportunities of reaching a just conclusion than an individual judge, almost invariably overburdened with work, can possibly enjoy. They have before them the record of the trial, the statement of the judge and clerk and much other matter that under the rules of evidence is not admissible in court. If there have been previous convictions they have the time to ascertain that fact. They have the man's daily record since his imprisonment began; if he has been paid for

his work, as he should be, they know whether he has shown a willingness to save in order that he may get a fresh start in life. From every standpoint they are in a position to pass a judgment that shall have, at least, a chance of approximating justice.

In addition to abstract argument a wealth of evidence culled from those familiar with the workings of the indeterminate sentence was brought forward by Col. Griffith to support his argument. Among them he was able to refer to Gov. Cummins of Iowa, Gov. Tyler of Virginia, Gov. Mead of Washington, Maj. McClaughry, warden of the federal prison at Fort Leavenworth, Kan.; Hon. Eugene Smith, president of the Prison Association, New York; Hon. Z. R. Brockway of Elmira, Charles Dudley Warner and many others, all of whom had become conversant with the practical workings of the indeterminate sentence and indorsed it emphatically. Perhaps Gov. Hanly of Indiana may be quoted most convincingly, because he had opposed the change and had become converted by facts. Under date of September 16, 1907, he tells us:

"I entered upon the duties of the executive office prejudiced against it, and intending to condemn and attack it when opportunity offered. It was said the shrewd criminal would study the prison rules and observe them, and would therefore have no trouble in making good with the board and in regaining his liberty; that the poor unfortunate who was an accidental and not a professional criminal, who lacked advantages of education, who knew nothing of human nature and had no faculty for getting into the good graces of the board, and who most of all needed the



helping hand of the state, would be compelled to stay the limit of his time." He then tells us that "instead of its critic, I have become its defender. I have been convinced by what I have seen and heard and learned." He says that Indiana is able to speak from results after an experience of ten years, and sums them up thus:

"Under the old law, as we have seen, 70 per cent. of the prisoners discharged drifted directly into criminal ways, utterly failing to sustain themselves; under the present law 25 per cent. Of the 3745 prisoners paroled from April 1, 1897, to April 1, 1907, the life of the present law, 2084 completed their parole probation.

"The term of 293 others expired while on parole, and 325 were still on parole April 1, 1907. In ten years the 3745 paroled prisoners have earned \$949,773.63 and have saved, over and above expenses, \$187,345.63, a thing absolutely impossible under the old law."

Apparently Gov. Hanly's successor, Thomas R. Marshall, belongs to the same school of thought, his address before the Indiana State Conference of Charities and Corrections, held in Columbus, October 23-26, 1909, expressing a fervent hope "that the conference would be instrumental in building up a public sentiment capable of recognizing in the criminal a sick man needing treatment for his own and society's good."

Amos W. Butler, of the Indiana State Board of Charities and a noted authority on this subject, sums up the experience of the states that have adopted the indeterminate sentence by saying that "a much larger

per cent. of those discharged under the old system returns to lives of crime, and a far less per cent. of those so discharged manages to keep out of prison. Under the new system by far the larger number of those released after the parole test become law-abiding citizens, and but a small per cent. again find their way behind the prison walls."

Justice Franklin J. Fort of the supreme court of New Jersey urges the indeterminate sentence to usher in "a new and enlightened method for the reduction of crime, namely, the study, reformation and elevation of the individual man."

Marquis Barr, warden of the Anamosa reformatory, Iowa, bears testimony to the same effect, adding, as a clincher, the following argument: "If a man is found to be insane, he is sent to the hospital to be retained until cured, or, at least, until he is no longer dangerous to society. The commissioners for the insane cannot tell how long this may take, neither can a court determine the length of time a man should remain in prison before it is safe to release him."

It should be noted that all the seventeen states that have adopted the indeterminate sentence protect the prisoner by fixing a term beyond which he cannot be confined, while leaving it to him to work out his own salvation by showing that he can be safely restored to society at an earlier date.

Hitherto our codes have furnished no uniform standard. In Maine, Mississippi and Iowa, for example, it has been possible for a judge to give a man a life sentence for perjury; in New Hampshire, Kentucky and Connecticut five years has been the limit, while in Delaware the offense has been punishable

only by fine. Incest, that has been punishable in Louisiana with imprisonment for life, has brought only six months in Virginia and a fine of \$100 in Delaware. In the state of New York he who steals \$24.95 is but a misdemeanor, while he who takes \$25.05 is a felon, and Samuel J. Barrows, president of the International Prison Association, said only last year: "Ten thousand young men every year lie neglected in the jails and county penitentiaries of the state of New York because there is no power under the law to sentence them to the state reformatories."

In a word, the old system, looking solely to punishment, gives no guarantee either for the protection of society or the reclamation of the offender, and therefore the old system is doomed. In the words of an address issued recently by the Massachusetts Prison Association: "The changes which have been made in the past fifteen years in methods of dealing with crime have eliminated, in large measure, the penal element from the judicial system. The meting out of punishment has ceased to be the main function of the courts. In the new system the reformation and reclamation of the criminal have become (in theory at least) the central purpose." The philosophy of the Prison Reform League cannot be expressed in better terms. It seeks, however, to translate theory into fact.

## CHAPTER XIII.

### JUVENILE DELINQUENTS

The passage from the old to the new; from the regime of vengeance and deterrence, operating through the base passion of fear, to that of social protection and individual reformation, naturally finds its most complete expression in the treatment of juvenile delinquents. We say "naturally" because this innovation, which is of distinctly modern growth and has leaped into almost universal favor, bears all the earmarks of the scientific thought that is gradually dominating the age and that this work endeavors to expound. With this, therefore, we conclude our examination of the crime problem.

The juvenile laws are, in reality, an extension of the probation principle, first embodied in the laws of Massachusetts in 1878. Judgment is suspended, and the offender, with the co-operation of the probation officer and other agencies at the command of the juvenile court, is given a chance to reform. Separate trials for children were instituted first in Massachusetts and New York, but Illinois, by a law that went into effect June 1, 1899, was the first state to install the juvenile court as we have it today.

In the agitation for this reform women's organizations have played a most conspicuous part, and the entire movement doubtless should be regarded as part of that greater social revolt which is protesting against the immolation of child life on the altar of commercial greed; which, keenly alive to the fatal ef-

fects of the slum environment, is establishing city playgrounds throughout the country, and is manifesting itself in many other directions, such as the increasing attention paid to the treatment of defective children, the insistence that children need recreation and substantial food more than they need discipline and book learning, and so forth. In fact we shall find that the leading administrators of the juvenile court laws lay far greater stress on the spirit in which they are administered than on the actual text. The entire movement, which, we repeat, has spread with extraordinary rapidity, is the outcome of a revolt of the spirit; of the strictly modern, scientific conception that it is absurd to punish offenses that are the inevitable effects of well ascertained causes.

Within the past ten years thirty states have passed laws providing for the application of the probation principle to juvenile delinquents. We guard ourselves, however, by adding that, so rapid is the march of events in this particular field, other states may have taken action since this calculation was made. In accordance with the universal rule that central bodies invariably move slowly, the federal government still continues to prosecute and imprison promiscuously juvenile and adult offenders, as do fourteen other states. All but four of these are in the Southern section of the country.

No one can speak with greater authority on this subject than does Judge Ben B. Lindsey, of the Juvenile Court of Denver, Colo., to which office he was re-elected in the fall of 1908 by a plurality of 17,728, against three other candidates and the opposition of both the old party machines. Incidentally



it may be remarked that a most suggestive tribute to the high regard in which the juvenile laws, and Judge Lindsey's administration of them, are held was furnished by those who are, of all others, the most competent critics. Despite Judge Lindsey's protest the Denver boys worked as a unit for his re-election, which upset all the prophecies of the political wiseacres who had declared his success impossible. We shall quote at considerable length from Judge Lindsey, selecting first a brief passage from "The Reformation of Juvenile Delinquents through the Juvenile Court". We give this extract to show, in particular, that the writer distinguishes clearly between the old and new school of criminology, and that he is convinced that crime is on the increase, especially among the youthful. He says:

"The history of criminology will show that punishment of individuals is not a successful method of preventing crime. If it were there ought to be fewer people in jail every year. On the contrary crime is on the increase. Each year adds to the inmates of nearly every reformatory in this country. There is no justification for the punishment of a human being unless it is necessary to help him, or (what is more important than to the individual) unless it is necessary to protect society, that is, to best secure to all individuals security of life, property, and the pursuit of happiness. Any other view would be to admit the doctrine of vengeance as just, wise and humane. What we seek is justice, administered with wisdom, humanity and charity. It is a sad and at the same time important thing that the increase of crime is largely among the youth of this nation. Facts and



figures in this respect come almost like blows to remind us of our responsibility, and to suggest our short-sightedness. It is said that over half the inmates of reformatories, jails and prisons in this country are under twenty-five years of age. Some authorities say under twenty-three. We now know that the seeds of criminality in the great majority of cases are planted in youth. The English prison commission recently reported to Parliament that the age of sixteen to twenty was essentially the criminal age, and between ten and sixteen the most important age for the care and formation of character. The Earl of Shaftsbury, after much study, declared that not two in any one hundred criminals in London had formed the habits which led to criminality after the twentieth year. There are from three to five times as many children, in proportion to population by ages, arrested every year in the cities of this country as adults. Seventeen thousand under sixteen, it is said, were arrested in Chicago the year before the juvenile court law went into effect. A similar condition may be found in nearly every large city."

Life is the great teacher. All of us have certain experiences that drive home lessons we never should have learned from books, and we shall give pages from the reminiscences of Judge Lindsey and others, as illustrating, better than could any abstract argument, the principles involved. This has been the method pursued throughout this book, the argument against the regime of hate, brutality and violence being enforced at every turn by holding beneath the reader's nose, so persistently that he cannot escape the nauseat-

ing odor, the filth served up to society in the name of justice.

In the pamphlet previously referred to Judge Lindsey tells us the story of a little boy aged eleven; a child full of a thousand entirely natural desires. One of these was to make a kite. "He must have the kite sticks, and a knife wherewith to cut the sticks. Child-like he asked a very ignorant and half brutal father for his knife. He was met with a curse and a blow. He was told to get the knife the best way he could. To his childish mind his father was the sum and substance of authority. He saw the barbers in the shop using sharp knives. One night he entered that shop and took therefrom a razor with which to cut things. There was a breaking, an entering and a taking. In the eyes of the law he was a burglar. In my eyes and yours he was a misdirected, misguided child. No more a burglar than you or I. Yet the harsh machinery of the criminal law took that child into the criminal court, and under the charge of common burglary he was sentenced to jail and served his time. Then followed a career of similar offenses, gradually drifting to a more serious character. He was hunted by the police, arrested, sent to the Industrial School, returned to his former occupation of stealing; then hunted like a dog by police and detectives; lain in wait for in the night, and finally shot at like a wild animal in the mad efforts of the police to catch a desperate burglar of the age of sixteen. He was then brought to the juvenile court, a wrecked, distorted image. Now, I ask you who is responsible for this creature, bright and alert as a thief, already well progressed in the hardening process of soul and

conscience? I say, the state. I say, almost anyone except that child. I once asked this boy, after he had been months on probation in the juvenile court, how long it took to try him the first time. "Oh," said he, "the guy with the whiskers who sat up on the high bench looked over to the cop, and the cop says to him, 'this is a very bad kid; he went into Smith's barber shop and took two razors, and he admits it, yer Honor;' and what does the guy do but likes me right off to Golden before I had a chance to say a word."

This is not the Prison Reform League talking. It is a judge, a responsible judge; probably the most universally admired judge in the United States. It is surely not difficult to read between the lines in the foregoing passage, and discover Judge Lindsey's real opinion of our administration of the criminal law which, as President Taft himself has recently acknowledged, is a national disgrace.

Another of Judge Lindsey's stories is that of a young man of twenty-two, who was first sent to jail at the age of twelve. The night before his execution he said, with bitter hatred in his voice: "I've got even with the state: I've killed two cops." Assuredly Judge Lindsey is not hostile to the philosophy the Prison Reform League preaches perpetually, that hate and violence can only beget a progeny of hate and violence.

Mrs. Hannah Kent Schoff, president of the National Congress of Mothers, and chairman of the Juvenile Court Committee, New Century Club, Philadelphia, gives the following account of the origin of the juvenile court movement in Philadelphia, and we

reproduce it at considerable length, for it teems with suggestions:

"One morning in May, 1899, the Philadelphia papers gave an account of the arrest and imprisonment of a little girl for setting fire to a house. Her picture was published, and with startling headlines she was heralded to the world as a 'Prodigy of Crime.' Motherless since she was two years old, an inmate of an orphanage, and then a drudge in a city boarding-house, with no companionship except that of ignorant servants, there had been little opportunity for moral responsibility or development.

"Friendless, arrested, imprisoned, tried in the criminal court, and sentenced to the House of Refuge, and only eight years old!

"When asked why she started the fire she frankly said, 'To see the fire burn and the engines run.'

"Branded as a criminal, sentenced to the companionship of girls guilty of crimes of far greater menace to her character, what hope did the future hold for her? The injustice of that poor child's treatment led me to the determination to rescue her, if possible, and to do for her what I could wish some one to do for my own little girl were she in a similar position, as she might have been if she had been motherless and friendless at such a tender age. An interview with the judge, and an appeal to be permitted to place the child in a good home that I had secured for her, resulted in his granting the request, and now after five years she is as sweet, attractive and good a child as can be found anywhere.

"When I remonstrated with the judge for sending such a child to the reformatory, he said he had no

choice in the matter, for there was no other place to send her, and they did not want her even there, because of the character of the offense. Investigation into the methods of procedure with children only intensified a sense of the injustice and wrong that was being committed in the name of justice.

"There were five hundred children, ranging from six to sixteen years, in the Philadelphia county prison in 1900. There were from two to three hundred children every month passing through the station-houses of the city, standing in critical need of intelligent direction and guidance, yet receiving nothing. There were children in every county prison throughout Pennsylvania, committed for trifling offenses, and subjected to influences that could not fail to confirm evil habits. There were over eight hundred children in each reformatory, and no distinction was made as to the children committed there. Waifs, homeless little ones, children accused of serious crimes were indiscriminately sent to the same institution. It was made easy to send them there. The state put a premium on parental responsibility, and welcomed all who wished to receive education and support at the expense of the state.

"Any magistrate could commit a child to a reformatory on the parent's statement of incorrigibility, and no effort seems to have been made to prove the parent's statement. The child's side of the case was never heard. The result was that stepfathers and stepmothers, desiring to be freed from care of children, took this method of throwing on the state the duty that belonged to them, and more than half the children in the House of Refuge were there because



of complaints of parents, usually stepfather or step-mother. The stigma of a reformatory was thus put unjustly on hundreds of children, and the state was subjected to an expense that was totally unwarranted." Is not the story suggestive?

Certainly we have had reformatories, supposed to be for the improvement of the young, for many years past. But what has been their character? We have before us the report on the reformatories and penal institutions of the United States, made by Robert T. Devlin, president of the State Board of Prison Directors of California. It is not very recent, being dated 1890, but it is quite exhaustive and contains in its opening pages some highly edifying reflections. For example: "The prison principle is more or less hateful to the adult delinquent; it is an abhorrence to the youthful offender. The prison principle in reform peculiarly outrages the nature of child life. The shock penetrates to the ends of his being and body, and soul rise up against it in the fiercest antagonism; for, as soon as born, the great law is upon the child that he springs toward the development of a man. To this end his Creator has endowed him with the most intense activity and restlessness. The child loves and pants for freedom. His every contact with nature is but his communion with a second mother."

Turn now to the first detailed report, that on the State Industrial School for Juvenile Offenders, at Kearney, Nebraska. This was a much admired institution, being organized on the family or cottage plan, which was supposed to represent the most advanced ideas. A system of merits and demerits is represented as in force, and a study of the rules as



to this will show what, in the eyes of the managers, constitutes the ideal of good and evil conduct among the inmates. The regulations read thus: "The furnishing of correct information to an officer of an inmate planning to escape entitles the informer to one hundred merits (the largest reward mentioned). For an attempt to escape an inmate forfeits all merits earned by him, and may receive such additional punishment as the superintendent may determine."

In other words, we acknowledge that the child, by the very necessity of his nature, pants for freedom, but the attempt to realize that unquenchable aspiration is made the most serious offense of which he can be guilty. On the other hand, the institution is run on the spy system, the good-conduct medal going to the most industrious informer. Surely none but prison officials could have thought out such a morality, and an examination of other reformatories dealt with in this report discloses the same feature recurring with sickeningly monotonous regularity.

Now consider the following, which is matter of record: In April, 1903, a Brooklyn man, aged twenty-two, was released from the reformatory at Napanoch, N. Y. As is the custom he was presented with \$10 on being discharged from custody, which he immediately invested in the purchase of a revolver. He then went directly to the house occupied by his mother and shot the woman dead. His explanation was that he had thought the matter over carefully during his last incarceration and determined to take revenge on his mother, as, thanks to her, he had passed sixteen of his twenty-two years in various reformatory insti-

tutions, including the Catholic Protectory, the House of Refuge and the Elmira reformatory.

In the *Outlook* of August, 1908, Harry Hall, treasurer of the Berkshire Industrial Farm, tells of a boy of twelve who had been convicted six times of what would be considered serious offenses in the case of an adult, the first conviction having been when he was only seven years old. He speaks of a lad who, on being sentenced to state prison, said to the judge: "I want to say that when I first went to the House of Refuge I was a good boy; when I came out I was a burglar." Unless we miss our guess this boy still had in him the soul of a militant reformer, who was not afraid to speak out for the public good.

Evidently the reformatory of the past has failed to reform, and it may be noted that in the first story quoted from Judge Lindsey the lad referred to speaks of being sent to "Golden", practically without a hearing, for his initial offense. "Golden" is the Colorado State Industrial school for boys, and the judge himself alludes to it as "that awful fate to every boy."

There is reason to believe, however, that the humanitarian spirit which has been the conspicuous feature of the entire movement for the establishment of juvenile courts has brought as one of its consequences a great change in the character of industrial institutions for the reformation of the young. Judge Lindsey himself declares that good industrial schools are much better for training of delinquents than is the street, and that more mistakes are made in not committing to them boys and girls than in committing them, for "these schools when properly conducted, as

most of them are, through their splendid superintendents, are doing a service to the state that is poorly appreciated." He declares that "these industrial schools are not what was known as the old reform school of ten or twenty years ago. Their methods are educational rather than punitive, and such an institution should exist in every state and near every large city." And it must be constantly remembered that, in Judge Lindsey's own words: "The real significance of the juvenile court movement in America has not been so much the spread of law, or anything new in law, as the spread of the spirit involved in regarding every boy or girl brought to court as one to be saved, to be strengthened, understood, helped and not hurt or degraded." In short the essence of the entire movement is that the letter killeth, but the spirit giveth life; that the combination of such reforming influences as it may be possible to enlist through the services of the probation officer, the home or the industrial school are more important than the technical work of the court. It expresses the growing understanding of the truth that mere state machinery in itself is impotent for good; the bitter cry sent up by Oscar Wilde when he wrote:

"Each narrow cell in which we dwell  
Is a foul and dark latrine,  
And the fetid breath of a living Death  
Chokes up each grated screen,  
And all, but Lust, is turned to dust  
In Humanity's machine."

This spirit is well exhibited in another passage from Judge Lindsey's writings. In *Charities and the Commons*, under date of November 7, 1908, he relates

some of his experiences in the juvenile court of Denver and says: "The law in Denver has cut very little figure. We had practically no law up to March, 1903. For more than two years we brought children to our court charged with needing correction. We brought them there with the same consideration and for the same reasons that we should bring a child abandoned on the streets because of neglect. We could see no difference between the boy of twelve who was abandoned in the streets through no fault of his own, and the boy of the same age who because of environment, lack of care or the fault of others, thoughtlessness, misdirected energy, or even meanness, had become technically a thief. In truth he was not a thief at all. The state and others by bungling in handling him might make him one. If he could not make a contract until twenty-one with a fellow citizen we thought it was no more than fair in his dealings with the state that he should not be held to the same contract with the state to obey its laws or suffer the same treatment and penalties as the man or woman past twenty-one."

It is unfortunately the case that the administration of the juvenile delinquent laws has been too often in the hands of those who have not been inspired by these broad-minded principles, and from many points the complaint has come that too often the proceedings are criminal; that the child is tried as a criminal, coming into court and leaving it with the feeling that the whole power of the state has been arrayed against him. We believe this erroneous standpoint is gradually being abandoned, and we find in the juvenile court law recently adopted by Kentucky what seems to us a

correct and concise statement of the spirit that should animate all such laws. It reads: "The proceedings involving the child shall not be deemed to be criminal proceedings, and the child shall not be considered a criminal, but as a child in need of aid, encouragement and guidance." In a similar vein Warren F. Spalding, secretary of the Massachusetts Prison Association, writes of the law recently adopted there: "The important difference between the treatment of children and adults is that the proceedings are not criminal; the complaint is for 'being a delinquent child', and not for committing a crime; there is no plea, of course; no conviction and no sentence. The child is adjudged to be a delinquent child, and upon that judgment probation or commitment to an institution for reformation may follow."

There is another feature of the average juvenile court laws that should not be overlooked. They may not, it is true, touch on the fundamental causes of crime, and that great crime producer, poverty, but they at least edge in that direction by pursuing the subsidiary causes. Thereby they betray their parentage — the scientific trend of modern thought, which insists on getting at the reasons for existing conditions. Thus Judge Lindsay, writing shortly after the adoption of the law creating a separate juvenile court in Denver, declares that a vigorous campaign will be waged against divekeepers and proprietors of similar places that harbor and corrupt the youth of the community, and adds: "We shall make a special effort to reach the causes of crime."

The same line of thought is accentuated in an article by Judge Lindsey that appeared in the *Independent* of August 27, 1908, in which he says: "I believe that



the police and the courts are concerned with the lawlessness of more than 100,000 children every year, and that means a million in each generation of childhood. Should there not be some warning in this appalling fact? Some of you may think it is an indictment of the home and the school. It is rather an indictment of certain social and economic conditions with which the home and the school are powerless to contend. The child has no home where it has no play." And again: "Perhaps the saddest thing in my experience is the cursing of heartless parents that I have heard from the lips of neglected boys and girls. May not the state suffer a similar penalty in that curse that comes to it through increased crime among our youth?"

Answering a series of questions in *Charities and the Commons*, under date of August 15, 1908, Judge Lindsey has this to say: "I find the home always more to blame than the school. There is a disposition upon the part of thousands of parents in every city to shirk duties because of the idea they seem to have that it should be all performed by the school. Such parents are certainly dangerous citizens." Observe how firmly he places his finger on the great evil of the entire protective philosophy which has dominated the United States so disastrously, as we are just beginning to learn. The parents trust to the public official to look after the morals of their children, shuffling off on the shoulders of political appointees their own responsibilities. A peril against which Buckle, Herbert Spencer, Huxley and the leaders of scientific thought have warned the world unceasingly.

In the same article Judge Lindsey punctures another delusion to which our national vanity leads us, but one



that the Prison Reform League has been careful to expose — viz., that the poor immigrant is responsible for the continual increase of crime. He says: "I am not one of those who lay much stress upon immigration as a cause of crime in this country, either adult or juvenile. My own investigations of police records (and I have investigated those of nearly all large cities) have rather startled me by showing how few of our juvenile criminals are of foreign parentage. Perhaps more children of immigrants get into court, but my judgment is that this is largely because of poverty and ignorance. I am coming more and more to the conclusion that the causes of crime must be searched for among those evils that afflict our social, economic, industrial and political conditions."

We have had such frequent occasion to criticize the south as behind the spirit of the age in questions relating to prison reform that it gives us profound pleasure to note the fact that, in the matter of juvenile offenders, she is showing every sign of an awakened conscience.

In 1907 Judge Lindsey made a tour of the south, and he expressed himself much shocked at the treatment of juvenile offenders. "The matron of that jail told me she believed there were several hundred boys that night in jails in that state under similar conditions. Assuming that there were only 200, it meant that over 1000 boys a year, at least, had such experiences, and in ten years 10,000 boys under sixteen were so treated. (In that one particular state it must be understood.) Crawford Jackson of Atlanta, Georgia, who is making a crusade for juvenile protectories in the south, shows us pictures of boys in stripes on the

chain gang, mixing with various types of criminals. I have seen one or two such instances myself."

But as regards the treatment of its juvenile delinquents, at least, the south apparently is undergoing a change of heart. Judge Lindsey pays a warm tribute to the work the southern women are doing. He points out that United States Senator Robert L. Taylor of Tennessee is a pioneer of more than twenty years' standing in the juvenile court movement; that Governor Vardaman's various messages to the Mississippi legislature have shown him to be strongly in favor both of juvenile and general prison reform, and that Gov. Haskell of Oklahoma stands for juvenile courts. Judge N. B. Feagin has done splendid juvenile court work in Birmingham, Ala., for years past, having procured the appointment of probation officers to look after the colored children, many of whom are sent to a farm under the supervision of the probationary force. The Birmingham women have established an industrial school, to which children can be sent instead of, as hitherto, to the jails and penitentiaries. Good work has been done in Mobile, Ala., and, in spite of legal entanglements which caused the juvenile court law passed by the Louisiana legislature to be declared unconstitutional, there is practically a juvenile court in operation in New Orleans.

As might be expected there is much good literature bearing on this special branch of criminology. The *Juvenile Court Record*, Unity building, Chicago, is a monthly devoted to this subject, and the same concern publishes a booklet on the Juvenile Court Laws of Illinois, with the blank forms in use, which has been compiled by Hon. T. D. Hurley. It also issues excel-

lent addresses delivered by Judge Stubbs of the juvenile court of Indianapolis, Judge Heusler of the juvenile court of Baltimore, and Judges Tuthill and Mack of the juvenile court of Chicago. The juvenile court of Denver also puts out some admirable pamphlets, and the *Survey*, formerly *Charities and the Commons*, of New York City, has devoted several numbers almost entirely to this question.

## CHAPTER XIV.

### CONCLUSION

There remains only the summing up. In the first eleven chapters of this book we publish an indictment that is terrifying and cannot be gainsaid. We had no wish to make it so. Our business, as we conceived it, was to state the facts, and naturally we sought to make our work attractive by the judicious mingling of light and shade. But the picture is all black.

Our civilization has to its credit material achievements such as the world has never known; yet crime, and especially crimes of violence and those committed by the young, increases. We boast a literature that has ransacked the accumulations of ages for inspiring thought; yet, as a nation, we cling tenaciously to the savage's instinct for revenge, embodied in capital punishment. When we speak of torture we think of the Dark Ages; yet in the penitentiaries and reformatories—God save the mark—of leading states torture, in most revolting forms, is practiced habitually.

Turning from the jailer to an examination of the methods employed by those entrusted with the sacred duty of protecting society and administering justice we find no relief. In the eye of the arresting officer the poor man is always guilty, and the desirable thing is to keep the criminal docket well filled. The police run men in without legal warrant, and repeatedly without the slightest show of reason; "sweat" prisoners who, according to the fundamental principle of criminal law, are innocent; suppress free speech, and in countless

other ways, with which the public is now long familiar, trample under foot rights supposed to be secured beyond all question by the constitution of the country. Throughout the country, safely entrenched behind the fortifications of powerful and profoundly corrupt political combinations, the fee system pursues its relentless course, with net untiringly outspread, trafficking as relentlessly in human liberty as a fishmonger traffics in fish.

In county and city jails the victims thus entrapped — always the poor, since the deposit of money brings immediate release — are caged under conditions that are a disgrace to the nation's reputation. No distinction is drawn between the presumed innocent and the convicted; apparently the one effort is to make the place of detention an inferno and den of vice.

Reviewing, in Chapter XI, the practical results of the application of these methods, every one of which springs naturally from a fanatical belief in the virtue of the deterrent philosophy, we gaze on a harvest such as may well be calculated to make the reflective shudder; the expert who, in this country, above all other men, has for years past made it his special business to compile the statistics of lawlessness, telling us coldly that the national crime is — murder. The tree of violence has borne its natural fruit.

With Chapter XII, wherein we have called definite attention to the birth of the modern school of criminology and have considered such new developments as probation, parole and the indeterminate sentence, the light begins to break. It shines in still more strongly in the chapter on juvenile delinquents. These are great gains and we should be the last to

minimize their importance. For thousands upon thousands the application of these modern methods has spelled individual salvation, and that is very much. Yet it is, in reality, only an infinitesimal part of the advantage actually won. The substantial victory lies in the fact that, at last, a breach has been made in the wall of the deterrent philosophy, and through that breach there will enter a truer and, therefore, a more humane philosophy than that to which mankind has been crucified so long. For modern thought can no longer stomach the doctrine of unlimited individual responsibility, and insists that crime, like all other manifestations of human activity, is the inevitable outcome of definite causes. Thus the triumph, the inevitable triumph, of the modern school of criminology, with its stubborn determination to ascertain and remove the causes of crime, means the death warrant of the old school of punishment based on the degrading passions of fear and revenge. We have said it "ad nauseam", but we reiterate it once more, for it represents the sole object for which this book has been written.

Let us not be too sanguine. Such an Augean stable as that of our treatment of crime and criminals cannot be cleansed with a rose-water squirt. A flood of icy criticism and crystal-clear thought will be imperatively needed, and we shall have to fight desperately for the opportunity of turning on the hose. It is well to form Prisoners' Aid societies, to help discharged convicts and to perform other of those kindly offices that appeal to the self-sacrificing. But these efforts are only succor to the wounded after they have



been thrust ignominiously from the enemy's camp. They make no attack on the fortress which ultimately must be captured. Nevertheless they are valuable as showing that the tide of kindness is rising, and that means much; for so long as men continue indifferent to human suffering and blind to the possibilities of human life no progress can be made.

The point made in the preceding paragraph is well stated by S. S. McClure, in "The Tammanyizing of a Civilization," *McClure's Magazine*, November, 1909. He says: "The cities of the United States are filled to overflowing with organizations of all kinds to oppose crime and to dispense aid to the masses of criminals and unfortunates who are created by present conditions; law and order societies, temperance organizations, college settlements, committees to put down the traffic of women. All these work well and earnestly, but their efforts are either the work of salvage, after the great damage is done, or, at most, attempts at a very partial cure. They assist the population in very much the same way that a servant might who was hired to drive away the flies from the table of a dinner party set upon the edge of a cesspool. What our country needs is, not more societies to remove flies, but the removal of the cesspool." The case could not be stated better.

We believe the tide is setting strong in the direction of humaner policies. We believe there are many wardens who are anxious to emulate the example set by such men as Maj. Robert W. McClaughry of the Fort Leavenworth (Kansas) federal penitentiary, Warden Murphy of Joliet, Ill., and Warden J. C.

Sanders of Port Madison, Iowa, all of whom are saturated with modern thought on this problem. But let us not be too sanguine. Politics dominates every detail of the administration of the criminal law, and the best warden in the world has strings upon him.

The changes so imperatively needed never can be brought about by wardens, or official boards, or even by charitable organizations formed for that special purpose. For, however greatly such bodies may be influenced on occasion by some exceptional individuality, the trend of such bodies is always toward conservatism, and those whose specialty is the relieving of distress are, above all others, liable to fall victims to red tape, regarding their charges no longer as individualities, but as numbers on the register.

Excellent as has been its work in the past the American Prison Association, to whose reports we owe much of our information, seems to us to exhibit this fatal tendency. In its infancy it could not induce a warden to attend its sessions. Now the presence of wardens and other officials is the most distinctive feature of its annual gatherings, and it prides itself upon this feature. To us it is a most alarming symptom. Consider the actual facts.

Within the last few years, thanks to the labors of such men as Brand Whitlock, Hopper and Bechdolt, Charles Edward Russell and many other writers, the public has become dimly aware that conditions in our state prisons are of the most atrocious character. What ordinary citizen ever dreamed of men being chained down in baths and tortured to the point of death with electricity and the water cure? Who of

us ever supposed that many, very many — for in this book we have dealt only with a few choice samples — of these institutions were the infernos they have been proved to be? A great light has been suddenly turned on, and where such conditions as we have described are found to exist it is the warden, above all, who stands out as the center of an unspeakably criminal group; guilty of crimes beside which those charged against their most hardened prisoners sink into insignificance. Therefore the wardens are the men who, above all others, are today on trial at the bar of public judgment, and there should be no mistake — no mistake whatever — about this.

Before us lies *The Survey* of September 4, 1909, containing a report of the last congress of the American Prison Association, held at Seattle in August, 1909. It is written by Isabel C. Barrows, widow of the late S. J. Barrows, a most distinguished criminologist, and it contains this paragraph, evidently intended to convey the warmest praise: "The chaplains had their own meetings, as did the physicians, open to the public and dealing with such subjects as tuberculosis, the mental and physical characteristics of criminals", etc. The point emphasized, as calling for admiration, is that these meetings were public, and the point we emphasize is that the report maintains the discreetest silence on a vastly more important fact, viz., that the entire congress adjourned while the wardens held their meetings — behind closed doors.

Doubtless the wardens discussed the prevalence of torture, for it has become a reeking scandal of the gravest proportions, but they discussed it in secret;

and the congress itself, in its open meetings, never touched the subject.

At the very beginning of this book we insisted that the statements of chiefs of police and similar officials were to be received with the most profound distrust. At its very close we say that, as a whole, the official reports rendered by wardens in the past have proved to be among the most unreliable documents ever submitted to a credulous public. For example, turn to "Modern Prison Systems," an official report made to congress in 1903, and you will find the warden of Folsom penitentiary, in the state of California, announcing: "We do not chain, cage or whip prisoners. Our punishment consists in (sic) solitary confinement with bread and water, and partial or total suspension of privileges. A punishment record is kept by the captain of the guard." At that very time discharged prisoners from Folsom brought with them terrifying stories of the punishments in use, the favorite one being the "strappado", a cruelly refined variation of the bull rings.

For a further edifying example we recommend the reader to turn again to Chapter III, in which is recorded the awful record of the Illinois State Reformatory at Pontiac, as exposed by the legislative committee which made an investigation in 1908. Yet at the National Prison Association congress held in 1907 the superintendent of that very institution, M. M. Mallory, read a paper on "Reformatory Methods as Applied to the Criminal Classes", in which he indulged in the following lofty sentiments: "Punishment has no legitimate place in the system, except as a means

to the end sought — the aim should be to turn boys and men of various degrees of badness into good citizens by the reformation of their habits and the development of their capabilities."

Any one who will take the trouble to consult "Modern Prison Systems," the official report just mentioned, will be struck with the difficulty evidently experienced by the compilers in obtaining answers to the questions sent out to wardens, and Lydston testifies to the same effect in his work, "The Diseases of Society," expressing himself as follows: "The lack of interest in the scientific study of the criminal in America is easily demonstrated. Desiring to compare observations, I recently wrote a large number of letters with formulated inquiries to the chief officers of the principal penitentiaries of the United States. The paucity of answers and the evidence of unsystematic and superficial observation, although not a matter of wonderment, were very suggestive. In some instances the replies were written by lay officials, in others by prison physicians. There was an absolute lack of homogeneity in observations. The most intelligent and valuable letter of all came from the warden of the Wisconsin state prison, who, though a layman, is evidently possessed of some ambition above drawing his salary. Some of the opinions expressed by the various prison physicians were what might be expected from men whose faculty of observation and generalization has not yet risen to the plane of their intelligence. Havelock Ellis met with a similar experience in England. He says: 'Some of my correspondents, I fear, had not so much as heard that there was a criminal anthropology.'" These conditions un-



doubtedly will continue as long as politics dominates the prison situation.

Before bidding the reader farewell we strike, with infinite relief to ourselves, a brighter note. In the *Outlook* of January 18, 1908, appeared an account, by Frederic C. Howe, of the Cleveland Farm Colony, and we can think of no fitter close to the examination we have been conducting in these pages. After relating that three years previous Mayor Johnson's rival for the chief executive office had twitted him in debate with the fact that the workhouse under his administration had failed to make money, and that the mayor had replied, "we are not trying to make money out of prisoners; we are trying to make men"; the writer proceeds to a description of the colony, which embraces a 1900-acre tract of farm and quarry land. Despite the fact that many of those sent there have been committed for comparatively serious offenses, there is no stockade, no one wears a ball or chain, there are no guards, and, as the superintendent told the writer, probably no one could be found on the place who carried a revolver or even a stick. The colony is under the management of Dr. Harris R. Cooley, who had been for seven years director of charities and corrections under Mayor Johnson's administration.

Dr. Cooley explained the fact that they had been able to dispense with the usual safeguards by making the work to which the men were set interesting and healthful, and he added: "Even from a financial point of view this experiment justifies itself. But that is the least important consideration. The principal thing is that we restore the prisoner's self-respect.



He grows strong by outdoor work. He goes back to life again able to meet the temptations which the city offers. And a very large percentage of these men never come back. But, better even than that, we restore their respect and confidence in themselves. For we treat them like men and they respond to it. We have had hundreds of prisoners at work on the farm here, and only a handful have ever taken advantage of their liberty. And it was the other prisoners who were most incensed at their escape. They were unhappy because some of their associates had broken their word. That is why we do not need guards to watch these men."

How true it is that the liar's real punishment is, not that others cease to believe him, but that he himself loses all belief in the veracity of others! And just as certainly the real punishment of those who wed themselves to the deterrent philosophy, the creed of fear, is that they become physical cowards, placing their sole reliance on the gun and the revolver.

Mr. Howe continues his account by saying: "There is another thing, too, which the files of the newspapers tell of this experiment for making men. Four or five years ago, when many prisoners were paroled by Dr. Cooley from the workhouse because they could not pay their fines, the ministers of the city and the newspapers united in a protest against the wholesale jail delivery which was going on. Dr. Cooley quietly justified his policy by saying: 'The rich avoid imprisonment by paying the fines which the police court imposes. The poor cannot pay their fines because they are poor, and are sent to the workhouse in consequence. That is imprisonment for

debt, and debt due the city. And imprisonment for debt is contrary to justice and humanity.' This same policy has been continued ever since. Now the city accepts it without protest. As a matter of fact it accepts it with pride. Probably no one of the radical departures from established traditions which have been accomplished during the administration of Mayor Johnson meets with such universal approval as does the humanizing of the treatment of the poor and the semi-criminal class. Whether the criminals have been made better or worse (and there seems to be no doubt that they are made better) the city itself has been bettered by this policy. Cleveland is a living example of the philosophy of Tolstoy, that society suffers more than the offender by its punishments, for society is hardened by the public expression of vengeance."

Meanwhile it is a pleasure to report that, thanks to the liberal views entertained by many modern wardens, conditions have improved at certain points. On the Pacific coast, for example, the penitentiary at Salem, Ore., is understood to be nothing like the hell described in "Thirteen Years in the Oregon Penitentiary;" and Joseph Kelley, the author of that work, which was published in 1908, admits that the situation is better. The present superintendent, C. W. James, has been in office some seven years and claims to have abolished flogging entirely, to have done away with the wearing of stripes, save as a punishment, and to have put an end to the lockstep and the rule of absolute silence. A newspaper, *Lend a Hand*, is published in the prison, and the convicts have a band which gives weekly performances. Baseball is played

Saturday afternoons, and the superintendent reports that deprivation of the right to witness the game has proved a most effective punishment. For the last two years a parole system has been in force, but it applies only to prisoners confined under an indeterminate sentence. Forty-nine convicts, out of a prison population given as 402, had been released on parole during the past two years, according to recent figures, and all but seven were reported as having made good.

In the Washington state penitentiary, at Walla Walla, the parole system and indeterminate sentence are in operation, and the state furnishes work in a rock quarry to those who are considered worthy of parole, but find themselves unable to procure employment. Flogging is said to have been abolished, and the officials name solitary confinement in the dungeon, on bread and water, and the "Oregon boot" as the punishments in vogue. This boot is an iron collar weighing eleven pounds and fastened round the ankle. Minor offenses are also punished by the offender being compelled to wear a black and white suit, while those guilty of more serious misconduct are put in stripes of black and red. The lockstep is still in use. Recently a reform school has been established, for first-term convicts between 16 and 30 years of age.

The prison is run, however, at a heavy annual loss, the profits of the jute-mill, which represents the sole industry carried on, being given at about \$16,000 a year. As against this the legislature makes annual appropriations for the prison amounting to more than \$300,000 a year. It may be interesting to compare this with the history of the Minnesota state prison at Stillwater, generally regarded as one of the best con-

ducted in the country. The records show that fourteen years ago the expenses of running that prison exceeded the earnings by \$35,285, or \$70 per capita, while in 1907-'08 the earnings exceeded the expenses by \$257,229, or \$189.69 per capita.

It might be supposed that this revolution at Stillwater had been accomplished at the sacrifice of the convicts, but the reverse has been the case, Warden Henry Wolfer having instituted a régime that is thoroughly up to date. The grading and parole systems are in active operation, and a genuine effort to uplift the convict appears to have been made. It is to be noticed particularly that inmates are paid for overtime and extra work, and the last edition of the Hand Book issued by the authorities shows that nearly \$2000 is being paid monthly to prisoners.

There seems good ground also for hoping that conditions are improving in the San Quentin (Cal.) penitentiary, judging from the address delivered by the new warden, John E. Hoyle, at the American Prison Association congress, held in Seattle last August. Mr. Hoyle is reported as having said, in part: "When I took charge of San Quentin the straight-jacket was in use, and guards who were making the most reports of breaches of discipline were considered the best. I let it be understood that I did not believe that any considerable number of the prisoners were disposed wilfully to disobey the rules, and that I would allow no punishment without full investigation. My beliefs have been justified; discipline has improved wonderfully. Privileges have been augmented. I allow the prisoners to have a brass band

and to give entertainments, and have furnished materials, etc., with gratifying results. But I have let it be understood that rigorous punishment would be administered to wilful and persistent violators of the rules, but only after thorough investigation. A great majority of the convicts are in harmony with the idea that rigorous punishment is necessary with some.

"The parole law is a success. I have impressed upon prisoners this opportunity for freedom. The prisoner is imbued with the idea that the hand of society is not against him, but is willing to give him a chance. It gives them hope.

"I am opposed to all spy and stool-pigeon systems. No prisoner should be employed with the understanding that he is expected to make reports to the warden."

The address in question was delivered almost immediately after that in which Col. Griffith had given his own experiences in San Quentin, and may have been intended as a rejoinder. If so, it is a fair illustration of the benefits reaped when even a little light is thrown upon abuses, and we express the opinion once again that immense pressure will have to be applied all along the line before substantial gains can be permanently acquired. What has been accomplished in that direction up to this time should be regarded merely as the most modest of beginnings.

Whether or no this book will bring a money profit we cannot tell; but, if it does, all present profit will be devoted to the release of those now lying in the California penitentiaries of Folsom and San Quentin, prisoners of poverty. There are many, very many such men, who would be given their paroles tomorrow

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if they could raise the sum required. As it is twenty-five dollars must be deposited with the authorities, and there are other expenses which bring the total up to between fifty and sixty dollars. Thus these men are really being punished for the crime of being poor. Whatever this work may realize will be set aside by the Prison Reform League as a fund for their relief.





### THE STRAIT JACKET.

A favorite method of punishing convicts for trivial offenses. The victim, if laced too tightly, may be crippled for life.

See page 74.

## APPENDIX

The following lecture has been delivered, with slight alterations, in San Francisco, Oakland, at Stanford University, in Sacramento, Seattle, Pomona, and several times in Los Angeles and its vicinity, during 1908 and 1909, by Col. Griffith J. Griffith, the principal organizer of the Prison Reform League.

In 1907-'08-'09 Col. Griffith visited numerous prisons in the United States, from Salem, Ore., to Sing Sing, N. Y., as well as several in Mexico, in order to gather information. His statements never have been successfully contradicted.

The lecture is appended in the hope that it may prove of service to speakers dealing with this great theme, since it presents in condensed form many of the facts and arguments that are given with greater amplification in the main body of this work:

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The greatest problem of human interest from the dawn of history is one of relations. Our relations to the perfect ethical spirit and our relations to each other are the chief questions with which men have concerned themselves through all the ages. Modern education aims to solve this problem.

In this short lecture I will endeavor to treat some features of this great problem bearing on organized society's attitude toward the offender. The fact that I have read thousands of pages of matter written by many authors, and thus looked into the very depth of

human knowledge on this subject, together with my personal experience and observation, are my reasons for saying that I could talk for many days on crimes, punishment and reform without exhausting my resources.

Within the last two years I have traveled over 15,000 miles in the United States and Mexico and visited many prisons, from Oregon to New York, the most notable of which, in the City of Mexico, contained 5000 men and 700 women prisoners. For comparison allow me to state that both San Quentin and Folsom prisons have but twenty-eight female prisoners, thanks to and God bless American motherhood.

From personal experience, observation and knowledge I am forced to the conclusion that the discipline of the average prison hardens, degrades and is a perpetual exhibition of cruel, arbitrary power.

Treatment that puts an impassable gulf between the prisoner and society will never make a convict better. Men in prison, much like those out of prison, can be made better and they can be made worse, according to their treatment, environments and opportunities.

Man is not a commodity. He is not a compound of mathematical quantities or chemical gases. He has a heart and a brain, and between these spring a thousand needs and emotions. He has the instinct of love. He is conquered by justice and any plan for the measurement of man which leaves out justice will and must be a failure.

I wish I could make it so convincingly clear that the civilized world could fully realize it, that a prisoner can never be reformed by being wronged. Did

two wrongs ever make a right or vengeance make a man or woman better?

In many of the penitentiaries there are instruments of torture, and now and then a convict is crippled for life or murdered. Inspections and investigations go for naught because the testimony of a convict is unbelieved. He is generally prevented by fear from telling his wrongs, for if he speaks he is not believed—he is regarded as less than a human being, and so the imprisoned suffer and remain without remedy. Every noble or manly feeling, every effort toward real reformation is trampled under foot, so that when the convict's time is out there is little left on which to build. He has been cruelly humiliated to the last degree, and his spirit has been so long bent or crippled by authority and fear that even the desire to stand erect has faded from his mind. The keepers know that they are safe, because no matter what they do the convict, when released, will not tell the story of his wrongs, for if he desires to conceal his shame he must also hide their guilt. Thus it is plain that, no matter what happens in the average prison, there is no redress for the convict.

Before proceeding further with generalities I wish to read a few paragraphs from the "Oldest Code of Laws in the World." These laws were written in the Babylonian language on a stone monument of black diorite and found about five years ago among ruins which had been buried for thousands of years.

Some historians claim that this code of laws was in existence fully a thousand years before Moses was born; and Dr. H. Winkler says: "It is the most important Babylonian record which has thus far been

brought to 'light." This code was translated into English by Prof. C. H. W. Johns, M. A., Queen's College, Cambridge.

Witchcraft is the first crime on the list and is described as follows:

"If a man weave a spell and put a ban upon a man, he that wove the spell shall be put to death."

"For perjury and subornation of witness — death."

"For burglary committed in a temple or palace — death."

"For a 'fence' or receiver of stolen goods — death."

"A judge who shall render an unjust decision — he shall pay twelvefold and forever lose his seat."

"Arson — burn to death."

"Adultery — culprits shall suffer a gentle death by drowning."

"If a man has stolen an ox, sheep or ass, a pig or ship, he shall pay thirtyfold. If he is a poor man, he shall render tenfold. If a thief has naught to pay he shall be put to death." (No chance for the poor man in those days.)

"If the owner of lost property has not brought witnesses knowing his lost property, he has lied, has stirred up strife and shall be put to death."

"If a man has stolen the son of a freeman, he shall be put to death."

"If a man has harbored a fugitive and has not produced him on demand of the commandant, the owner of the house shall be put to death."

"If a man conceals a slave in his house and afterward the slave has been seized in his house, that man shall be put to death."



“If a man has broken into a house, one shall kill him before the breach and bury him in it.”

“If a man has carried on brigandage and has been captured that man shall be put to death.”

“If the brigand has not been caught, the man who has been despoiled shall recount before God what he has lost, and the city and governor in whose land and district the brigandage took place shall render back to him whatsoever was lost.”

“If a man has struck his father, his hands shall be cut off.”

“If a man shall cause the loss of a gentleman's eye, his eye, one, shall cause to be lost.”

“If he shall shatter a gentleman's limb, one shall shatter his limb.”

“If a man has made the tooth of a man that is his equal to fall out, one shall make his tooth fall out.”

“If a man has struck the strength of a man who is great above him, he shall be struck in the public assembly with sixty strokes of a cowhide whip.”

Section 218. “If a doctor has treated a gentleman for a severe wound with a lancet of bronze, and has caused the gentleman to die, or has opened an abscess of the eye for a gentleman with the bronze lancet, and has caused the loss of the gentleman's eye, one shall cut off his hands.”

Section 219. “If a doctor has treated the severe wound of a slave of a poor man with a bronze lancet and has caused his death he (the doctor) shall render slave for slave.”

“If a woman hates her husband and has said ‘Thou shalt not possess me’, one shall inquire into her past what is her lack, and if she has been econom-



ical and has no vice, and her husband has gone out and greatly belittled her, that woman has no blame; she shall take her marriage portion and go off to her father's house. But if she has not been economical, a goer about, has wasted her house, has belittled her husband, that woman, one shall throw her into the waters."

For some thirty stated different crimes death was the penalty. There are many more interesting paragraphs in this little 80-page book, but owing to crudeness and vulgarity some are unfit for reproduction before this modern mixed audience.

This and other books bearing on human progress, including the Bible, convincingly show that "an eye for an eye" and "a tooth for a tooth" was not only the Mosaic law and custom during Moses' time, but long before and clear down through the ages which followed until the Father of Mercies appeared on earth and taught human beings the blessedness of mercy and the divinity of compassion and "to love one another" and "love thy neighbor as thyself." He showed that the Fatherhood of God necessarily involves the Brotherhood of Man.

Notwithstanding these noble sentiments, barbarous and cruel laws continued to exist, and the scientific reformation of criminals never legally crystallized until thirty-five years ago, when the Elmira reformatory was built. Since then I will say that among the most significant signs of human progress is the modern treatment of prisoners, and especially the youthful offenders, as contrasted with the barbarous and inhuman method of dealing with them throughout the centuries.

The law establishing the Elmira reformatory has been in its main features the law adopted in several states for the reformatories within their bounds. The same aims, methods of government and applications of principles, with due modification and developments, have been followed. The fundamental points of this new penological system may be now briefly outlined. Its bedrock is the incontrovertible fact that the violator of law can be reformed, and that the most effective way to protect society is to reform the criminal. Reformation, and not retribution, therefore, should be the chief end of punishment. The indeterminate sentence is one of the most important elements in securing this reformation. A determinate sentence is "absurd in principle and grossly wrong and injurious in practice." To bring about the results aimed at, it was held that the reformatory should furnish well ventilated and properly heated rooms or cells, sufficient food, full educational facilities, manual training, trade instruction, military drills, well selected libraries, appropriate recreation, with active and moral religious influences. These are actually the forces at work today in all the reformatories of the United States. An analysis shows that in addition to general intellectual education more than forty trades and industries are taught in the several institutions under consideration.

The board of managers of the New York state reformatory at Elmira say there has not been a case of flogging for nearly nine years, nor putting in irons for nearly six years, and for the past five years there has been no form of corporal punishment whatever. The board briefly explains the situation in these

words: "It has simply gone out of use, no apparent necessity for it having arisen." Comparing the old with modern methods, the said board in its report used this language: "We believe that the product of the present system is superior to the product of the old, in about the same proportion that a horse trained by Rarey is better than one broken by a cowboy."

At this reformatory a newcomer enters the second grade, from which, by good records, he may advance to the first and by bad records fall back to the third. There have been treated over 15,000 to date, and during the year nearly 3000 inmates are treated, whose ages range from 16 to 30 years. Several trades are taught, and in both trade and school work great care is taken not to give the prisoner tasks beyond his physical and mental capacity and equal care to make such tasks so as to call forth the best work that is in him. When a prisoner is said to have violated any of the rules he is entitled to a full and fair trial by the board of managers, who say in their report that "neither time nor trouble is spared to make these investigations thorough and impartial. The accused has as nearly an absolute 'square deal' as the wisdom of the officials involved enables them to bring about."

Prison laws and methods are vastly ahead of ours in nearly all the following states, all of them within the last fourteen years having passed new or added to their parole laws: Oregon, South Dakota, Indiana, Virginia, Arizona, New York, Ohio, Massachusetts, Connecticut, Kansas, Kentucky, Washington, Illinois and Idaho.

In addition to the improved conditions made by the parole system in the above-named states the indeter-

minate sentence law is now in force in some form in all the following states: New Hampshire, Connecticut, Colorado, Illinois, Indiana, Kansas, Massachusetts, Michigan, Minnesota, New Jersey, New York, Ohio, Wisconsin and Pennsylvania. Moreover the modern physical and mental training afforded in many of the institutions in these states, patterned mainly after Elmira, N. Y., has not reached California yet. Why should this be behind any state in the line of progress?

The indeterminate sentence plan embodies as one of its basic principles that the individual offender and not the crime shall finally determine the length of confinement or detention that is necessary to reform him. The principles involved in the indeterminate sentence and the parole system are logically one and the same and are inseparable. Probation or parole cannot scientifically be applied to the convicted person except through the indeterminate sentence. California is far behind other states in modern methods and the lawmakers during this session of the legislature should remedy some of these defects.

A study of codes on the one hand and of sentences on the other reveals an amazing amount of contradiction and rank injustice in the application of penalties. For this inequality and injustice the indeterminate sentence furnishes the necessary relief. Instead of the codemaker or judge declaring when a man shall come out of prison, it puts the main responsibility of deciding that question with the prisoner himself. How can any judge, though he be learned and "as wise as Solomon", in the brief space of time usually allotted by a trial court, determine accurately and

justly the time it would take to reform the prisoner? Is it possible under these unfavorable environments, with such limited opportunity to study, weigh and analyze the prisoner's character, to measure his stature mentally, physically and morally and pronounce just sentence? Can it be done (except in rare instances) without working a great injustice? Then why send him to prison for a fixed term? It may take but a short time to cure him, or it may take a lifetime. How is that judge to know? Society demands that he be cured or permanently secured; but punishment as such has no place in the Christian's plan of regeneration. The indeterminate sentence will eventually compel an entire change in prison methods.

The indeterminate sentence provides for commitment to prison the same way as an insane person who is sent to the hospital for the insane until cured. This has been done in other states and can be done here with comparative justice to all. The prison should be prepared for it and properly managed and its interests controlled by a competent supervising board, before whom each prisoner shall appear personally from time to time as occasion warrants, to be heard in his own behalf. The board in control should have the power of a court of rehabilitation and in justice to and for the better protection of society every prisoner should be tried by that body before being liberated.

Up to October 31, 1909, commitments to the two California penitentiaries aggregated 31,337. On the date named there were 1818 convicts actually confined in San Quentin and 1021 in Folsom, making a total of 2839. More than one-third of these are from Southern California.



San Quentin has 300 cells that contain two or more men, and thirteen rooms (including two hospitals) each of which has from fifteen to more than 200 prisoners. There are only 396 single cells, so that, even with the 800 new single cells promised next year, the antiquated disease and crime-breeding pens will be greatly overcrowded.

Modern methods and California have always been strangers, as is most evident in that corral of horrors known as San Quentin prison.

Warden J. W. Tompkins constantly reminded his flock that they were "sent there to be punished", and when he ruled over the 1600 helpless prisoners confined behind the gloomy walls of San Quentin many sad scenes were enacted. To lay the foundation properly for one I will affirm that which is generally conceded, that a prisoner is not totally depraved if he has love in his heart, and the great majority of the San Quentin prisoners showed their love by decorating their little homes with photographs or pictures of some loved one (allowed them under former management), and some would have several members of their family hung up in neat little frames. Some prisoners would lovingly point out these pictures and say: "This is a picture of my dear father and mother", or "This was my good wife", or "daughter", or "my sweet sister", and sometimes add, "and this one was my loving sweetheart", etc., etc. Many prisoners are serving long sentences, nearly 200 being life termers, and many of them keep their little homes (cells) as neat and inviting as possible; many had little boxes with locks attached, in which to keep little things that to them were cherished treasures.



One morning when the prisoners were all at work, Warden Tompkins called his men together and ordered them to "go through" every cell and take every picture, frame and all, and also every box and all books (except library books) and everything else that would be near and dear to the hearts of the unfortunate prisoners and place them in the fire.

A great bonfire was kept burning for several days until he supposed everything was consumed. The bonfire was in full view of the laundry in the middle yard, and one day as I passed by an old prisoner, who was forced to feed the flames, called me, and, after making sure that no one saw him, handed me a book, saying, "For God's sake, colonel, save this Bible", and I did so, and had the book rebound in Los Angeles. It bears the name of a prominent divine who sent it to a life-term prisoner.

In order not to tire you I will relate but two or three more cases of cruelty. A very intelligent prisoner, who was one of the best musicians in their band, was working in the machine shop when Warden Tompkins sent for him and said, "There is dope (morphine) in the prison, and unless you tell us all about it I will put you in the jacket and have you squeezed until you do."

The prisoner answered politely by assuring the warden and those present that he not only had no knowledge of any in the prison but would not know it if he saw it. In spite of this frank and truthful denial the warden ordered the captain of the yard to lace ——— in the jacket tight and keep him there until he tells." The poor, helpless man was tortured there for 140 hours, or nearly six

days and nights, and then released only because he was about to die. The unfortunate man is living in Los Angeles now, crippled for life, and in one of his letters to me he used this language: "Fortunately for me, I was a powerful man, of wonderful endurance, but this treatment has left me a physical wreck, unable to do a full day's work at my trade and turned loose on the world physically handicapped, with nothing before me but a life of sickness."

Every intelligent man in San Quentin knew that this man was being tortured, and yet no one dared even say a kind word for him.

You may ask what prevented the prisoners from making some demonstration of sympathy? My answer is, they dared not for fear of being shot. It was said that Warden Tompkins had 125 men under him, walking arsenals with five rapid-fire Gatling guns, 108 breech-loading Winchester rifles, 60 double-barrel, loaded shotguns, 72 rapid-fire revolvers and 12,000 rounds of ammunition at his command.

One more such case: Joe Fiddler had been a prisoner several years and his term was drawing to a close, he having but a few more weeks to serve. He was a "spooler" in the jute mill and worked on the same machine alongside of me. And although criminally inclined he did his task so well that I never knew or heard of any complaint. Joe Fiddler was naturally a strong, healthy man, yet he feared one of the prison guards over us, because at some prior time he had in some trivial way offended him. One evening after we had both finished our day's task and were on our way to join the 4 o'clock line from the mill he was suddenly called back by another guard, and after a mock trial immediately sent to the dun-

geon and tortured for twenty-four hours in the straight jacket.

I heard his moans and groans and pitiful cries for mercy—it never came—mercy and the Tompkins officials were strangers. As soon as he was able to walk about the third morning, while we were forming the breakfast line, poor Joe, carrying his coat and vest in front of him, hailed me. It was a cold morning and I inquired why he did not put his coat and vest on. He painfully said he could not, his shoulders had been crippled in the jacket. After I succeeded in getting his clothes on his shivering form he gave me the most pitiful account of how he was deliberately “jobbed” into the jacket by guard No. 2 in order to satisfy guard No. 1’s revenge.

Another scene, several weeks later, occurred, when an Italian who could not understand English refused to do hard work with others on the hill removal job, and because he would not walk meekly into the “solitary” for the jacket torture four guards grabbed him, two at his arms and two at his legs, dragging him in the direction of the dungeon. His pitiful cries for mercy were so loud that he attracted both the warden and the so-called “captain of the yard.” The latter ran to him, placed both hands on his throat, and choked the helpless man into silence while he was being dragged to further punishment. I never saw the poor man again. Hundreds of prisoners witnessed that scene, and though their sympathies were aroused they dared not make a demonstration, fearing the armed guards on the wall and in the towers.

This injustice was not committed in the black hole of Calcutta; neither was it a part of the lurid story of the “Tower of London”; it had no part or place

in the tradition of the "Dungeons of Chillon"; it was not one of the many heinous crimes recorded in the history of the "Bridge of Sighs"; the ensanguined acts of the "gladiatorial arena" and the "Crypts of the Tiber" were hidden in the purple hazes of vanished years long ere this San Quentin outrage was enacted. Yet who shall say that as a sample of "man's inhumanity to man" this California prison horror might not have consistently happened in any of the before mentioned places of human torture?

The reports of cruelty and debauchery that have emanated persistently at intervals from the female ward are too revolting for me to relate them.

Just across the bay and only a short distance from where the San Quentin atrocities are committed, modern justice is seated in her court; the youth of the common schools are committing to memory the text of the CHARTER OF RIGHT; Old Glory waves to the national trio of Fraternity, Charity and Loyalty; while the good people in over 200 churches in nearby cities are teaching the precepts of the Lowly Nazarene; and my belief is so sincere in the good intentions of all these agencies, that I trustingly hope it is only necessary to TURN ON THE LIGHT to bring about needed reforms.

The causes of crime are deep, ancient and persistent. Let us live in hope that some day these causes may be removed. The annual cost of crime in this country is estimated at \$5,000,000,000 to \$6,000,000,000, and the number of men in prison in the United States is over 100,000. Between 80 and 90 per cent. of them committed crimes against property. By looking deeply into the subject it is plainly evident to every investigator that there are many causes for crime

outside of the inherent weakness of men. Long ago it was said that the number of crimes rose and fell in accord with the price of bread, and whenever work was scarce crimes were plentiful. Poverty, or the faulty and unfortunate circumstances of our social and economic system, account for a large percentage of crimes in this country, in my opinion. To illustrate, G. A. England, M. A., in the October (1908) *Arena*, quotes statistics showing that in the years immediately following dreadful financial panics, when poverty was at its worst, killing reached its highest percentage. "Following the terrible panic of 1893-4, killings were more common than at any time before or since (1895, 10,500), a ratio of 1 in 6575 of population, the worst record in the history of the country." Again, let us look at these facts: December 25, 1906, there were 191 prisoners in the Tombs, New York, 62 of them awaiting trial, 129 awaiting the action of the grand jury; and 541 cases standing on the calendar. The corresponding figures for December 25, 1907, after the panic had struck, were 323; 238; 85 and 1271. Comment is superfluous.

G. Frank Lydston, M. D., in his latest book, "Diseases of Society", holds disease as responsible for many crimes. Several instances came under my observation of the most convincing nature. However, with many sociologists, I agree that if but half the money and energy used in prosecuting crime and persecuting people was applied to finding employment for idle men, conditions would greatly improve.

According to records published in 1907, by the American Prison Association, the commitments to prison in this country average 184 in each 100,000 of population; the ratio being 55.7 for Alabama; 80.5



for Illinois; while California is in the lead with 523.4 per 100,000 population. Do not these figures indicate something wrong with both our laws and system? Iowa had two state prisons and no reformatory for minors or first offenders. One of the prisons in 1907 was transformed into a state reformatory, and the parole law has been adopted and made applicable to both institutions.

With modern laws and methods and the right men managing, from 70 to 90 per cent. of our criminals can be changed into law-abiding citizens. They are doing it in Indiana, and why not in California? Is it not a distinct and substantial gain both to society and the state? Does it not transform a liability into an asset, and a transgressor of the law into a defender of the law?

The late Samuel J. Barrows, of international prison fame, after visiting San Quentin last fall, used this language: "Our prison methods are a relic of the early days and ought to be exhibited in a museum. Our duty to the offender is to be kind to him and to help him reform. We must put aside the old law of retaliation and substitute that of redemption of the prisoner. The scientific application of mercy is the only resource."

Foremost among the great prison reform leaders in the United States today are Hon. Z. R. Brockway, Dr. Spaulding, Rev. Samuel Fallows, Frederick Howard Wines, Amos J. Butler, J. F. Scott. These and all modern thinkers concur in the methods Dr. Barrows advocates. It is not difficult to do our duty to our superiors or to those we love, but to do our duty to those who have wronged us is surely a rare virtue,



because in savage times we sought revenge for a wrong, and today we have the same spirit of retaliation in all our laws against criminals.

The weakest place in our prison system in this state is the lack of proper training on the part of prison officials. No one acquainted with the facts will doubt that. I studied conditions from all viewpoints, and I can sincerely say from personal experience and knowledge that the officers generally managing such institutions are as sadly in need of training as the inmates are of discipline.

In England they have training schools exclusively for prison officials, while Baden, Prussia, and other German states have institutes at which all prison employes must attend. At these institutes different courses are taught, some for the higher officials, including wardens, inspectors, etc., and also for state's attorneys and the judges of criminal courts, as well as for the subordinate officials, the instructors being university professors, officials of the department of justice and the higher prison officials.

The nearest approach in this country to the institutes referred to are our civil service laws in Massachusetts and a few other states, which resulted in securing a better class of men, thereby giving a permanency of prison service. Is it not possible for some progressive, noble institute of learning, like the Leland Stanford University, to set a pace in this part of the world by affording such training?

Over the entrance gate at San Quentin are these words: "He who enters here leaves all hope behind." If this legislature turns the prison into a reformatory such sentiments may change with modern conditions.

Instead, we may even read: "Love is the fulfilling of the law."

Within San Quentin's gloomy dungeon, situated about twenty feet below the upper yard, are probably a dozen dark cells, and made secure to the walls are several short, heavy chains about two feet long. Some of the prisoners are still living who sadly tell their experiences while fastened to these chains for fifty-nine days and nights. You and I can well imagine the physical, mental and moral improvement such treatment would suggest. Rather do we not shudder at the utter wreck of body, mind and spirit such an infamous torture would produce?

The doctors there lacked experience and were heartless and cruel — each had a hobby. Dr. Casey's cure-all was called a "bombshell" (a painful cathartic), while Dr. Summers, his successor, used a 32-inch rubber hose and a gallon of water for every sickness.

Many tuberculous patients are among the prisoners, but no attempt has been made to segregate them from those who are free of that dreaded white plague.

Of the 1800 and odd prisoners not one who has been confined in San Quentin for any length of time but can tell sad stories of humiliations and cruelties in practice there ever since its organization in 1859. Those old men, returned for the fifth, sixth or tenth time, also vividly picture the brutalities of former years practiced there, when it was a common thing to see prisoners stripped naked, fastened to a large post and beaten until the victim's blood would form a pool around his feet, and when untied he would fall helplessly on the ground, weak from the loss of blood; while others portray death scenes of a revolting nature.

In San Quentin tobacco is the coin of the realm, and anything that one prisoner buys of another is paid for with so many little sacks or plugs of tobacco. Under present rules, every male prisoner is entitled to one ration of tobacco supplied by the state every week. In the past, on stated dates, prisoners were allowed to purchase through the commissary department an extra quantity of tobacco if they had cash on deposit with the warden. In this way prisoners would accumulate several extra rations, and it was a common thing to hear of tobacco bets made on handball or baseball games or prize fights, etc., and as many as 200 sacks of tobacco would be placed in somebody's possession awaiting the decision. The officers in charge would frequently get a clew through one of their many stool pigeons and suddenly discover a rule forbidding any prisoner to have in his possession more than one ration of tobacco at one time, and confiscate all the surplus by taking it away from the prisoner. Later, the same tobacco would be again sold to the prisoners, and the guards and officers would thus get a small part of their "perquisite" or prison graft.

Laughter belongs exclusively to humanity, and although surrounded by sadness, gloom and misery some of the prisoners make great effort to cultivate cheerfulness and sometimes mirthfulness. In connection with this tobacco steal some amusing things could be seen. One day the big guard in a jute-mill found a prisoner with a quantity of tobacco in his possession and the officer made him put it in a barley sack, throw it over his shoulder and walk alongside of the wise gazabo officer toward the captain's office.

There are from 700 to 800 men working in the jute-mill, and as the officer and his man and load walked

through, other prisoners quickly cut a hole in the bottom of the barley sack, and before the two had passed through the mill all their tobacco was not only appropriated, but securely hidden. When the guard discovered the tobacco all gone he realized the joke was on himself and he allowed the prisoner to return to his work.

Another officer on a holiday was watching from a distance across the upper yard a group of prisoners shooting "craps" for tobacco, and when the officer reached the crowd one of them must have had in his possession not less than twenty or more sacks and plugs. The officer, who was a nervous and excitable man, ordered the prisoner to put up his hands, and while he searched and sleuthed into the prisoner's pockets for the tobacco other prisoners picked the officer's pockets and relieved him, so that when the hunt was finished the officer was the most surprised of all, while the many prisoners who were eyewitnesses laughed heartily.

Within the state prison walls of Folsom and San Quentin are some hardened, naturally bad and desperate men, but the great majority are not bad men. The average prisoner is not so radically wicked as he is pitifully weak. Many are accidental and unwilling victims of circumstances over which they had no control; others did something construed to be an infraction of the law, yet the victim was not criminal at heart. Still others, on the impulse of the moment, did something that placed them within the pale of the law and would make good citizens if properly treated.

I spent two whole months at Sacramento last session advocating the passage of three important bills.

One was the indeterminate sentence bill, another was a better parole measure and the third the segregation and grading of prisoners. Thanks to the intelligent legislature, all three passed both houses unanimously. The governor, however, who claims he had 400 bills to consider within ten days after adjournment of that body, failed to sign them.

From personal knowledge and observation at San Quentin prison during the two years of 1905 and 1906 I am forced to the conclusion that our system is largely to blame. Instead of being beneficially instructive San Quentin, as conducted in the past, is positively a school for crime, where the youth from 14 to 21 daily and constantly come in contact with hardened and degenerate criminals.

There ought never to be more than one prisoner in a cell, for many reasons, and all cells should be constructed so as to admit of sunshine and pure air. When San Quentin prison was constructed these conditions were entirely ignored and are still overlooked, as can be proved, for there are but few single cells. The majority of the inmates are herded together in rooms containing two, three, five, ten, fifteen, twenty, thirty and forty, and there is one room now filled with more than two hundred prisoners, who spend from twelve to fifteen hours nightly together there.

Under these conditions, when they are thus herded together, what is there to prevent the expert criminal from conducting post-graduate courses in crime? Prisons, city, county and state, should be in every way sanitary, and its inmates ever protected against all disease-breeding germs. While society has and should have every legal and moral right to be protected



against its enemies, what right have we to rob the prisoner of God's pure air and sunshine?

A great majority of these men, having long been fed on prison slops, are physically run down, leave San Quentin with only \$5 and a brand on the body in the shape of a suit of clothes costing \$2.95, which every policeman and every detective knows. If there be a time when an unfortunate man needs a helping hand it is then. He was not allowed to see a state newspaper in prison, consequently he does not know where to turn to look for work, and that \$5 is not going to last very long.

He emerges from the bastille, and, as I have said before, physically and mentally handicapped. He is indeed a pariah. He is refused work, and, if successful in getting a job, men refuse to work with him. His mind and will power having been dwarfed and paralyzed through the brutal treatment of untrained overseers, he is in a sad and pitiable condition to face the world. Health shattered, courage gone, he has a shifty bearing, a bitter distrust of fellowmen, and the loss of ambition to win back a place in life. He is frequently subjected to open scorn and always to secret distrust. Mankind shuns him. Detectives and police watch and hound him. If a crime is committed he is arrested on suspicion and frequently locked up for days or weeks without evidence.

In line with modern ideas the good people of San Francisco have recently erected a home where liberated or paroled prisoners will be helped practically, where bed and meals may be had free and a fresh start in life given the helpless ones. It is being conducted by the society known as the California Prison Commission. These societies in Europe are supported



by government aid, as well as by private subscription. Their friendly supervision is infinitely better than alms giving, and the value of such organizations has been conspicuously shown in the great reduction of recommitments (recidivists) where best established.

Similar societies are doing good work in Chicago, Philadelphia and other eastern cities in this country. England has ninety and France fifty such societies. Germany, Holland and Denmark have many, while Switzerland leads them all with less prisoners per capita than any other country. She has a branch society wherever a prison is located, whose members form the acquaintance of incarcerated men and when the latter are liberated extend a helping hand and surround the helpless one with moral influence.

Out of a total population of 1021 now confined in Folsom prison, 342 are recidivists, and there are 387 recidivists in San Quentin. Can anybody believe that with a fair show and a square deal this enormous percentage of men would return to crime? Certainly not. Besides, it is very easy, in most cases, to convict a man who has served a previous term in prison. And if there be an object in the conviction, officers of the law can be found who are loud in their denunciation of the "ex-con" and in some cases deliberately manufacture evidence out of whole cloth in order to convict a man of a crime he never committed.

I know a man in San Quentin prison serving a life sentence who is absolutely innocent of the crime for which he is paying the penalty. Sixteen hundred dollars' reward paid to detectives is the secret behind his conviction, together with the fact of his being an "ex-con." The judge who sentenced him, the sheriff of the county where he was convicted, the people who paid part of the reward and all the prison officials for

fourteen years deeply sympathized with him and they all know that my statement is positively true, and yet the man remains in prison. Every intelligent prisoner in San Quentin knows him and is aware of the facts and the truth of my statement. Several others are confined there, not because they are criminals, but because they are poor. I ask not favor, but fair play for these helpless men. Does not the Bible say: "Open thy mouth and plead the cause of the poor and needy?" Proverbs 31-9.

I am deeply in earnest about these reforms, and my knowledge comes from experience, and is ample and profound. I am not discussing these matters for either wealth or notoriety — I have both.

I slept in room A with forty-eight others for fourteen months, right over the dungeon, where most of the torturing is done. Hundreds of times I heard pitiful cries for mercy, followed by human moans and groans. My heart was sick many times, yet I was helpless. See what I have seen and hear what I have heard and you, too, would be moved to action.

A thousand prison visits would fail to give you the knowledge that I possess. My heart reaches out in deep sympathy to my helpless fellow-men and especially to those legally dead yet buried alive and tortured behind the gloomy walls of San Quentin. Under the fatherhood of God are we not all brethren? And oh! how sad to think of the good men whose time must be spent in slavery and misery for the state when in them lies so much of the stuff which marks the true man!

I know that among them are victims of circumstances, over which they had no control, and as I saw 14-year-old boys and many young men enter the bastille, the very picture of health and manly vigor,

others with locks gray and faces marked by furrows of care, and some bent and infirm, on the very brink of eternity, I could not help but contemplate the sadness of it all. Knowing these things, why should I not plead for the needy and helpless?

It is the blessed privilege of hope which makes us all forbear, and every breath of human cheer opens to the prisoner's heart the hope of succor. Were I possessed of the eloquence of a former great statesman I would say much on "Crimes Against Criminals". However, the bitter things I say about officials spring from neither hate nor malice, but are meant to be used as a lever for the uplift of mankind. I have no desire to be revengeful, for verily we should all be tempered with mercy when we sit in judgment on our fellows, because we do not yet realize the mixture of good and evil that is in every man. If we cultivated more divine love and less hatred this world could be made a veritable paradise.

I have talked with murderers, train and stage robbers, burglars, pickpockets, hobos, yeggmen and others guilty of nearly every crime known, yet I never found a prisoner but could easily be convinced that a criminal career does not pay. A sane young man so convinced can be reformed.

In conclusion, if you are convinced that I have looked into the very depths of human knowledge bearing on "crime punishment and reform", allow me in closing to suggest briefly that while ten, twenty and thirty-year terms look hard to face, yet I am not so opposed to long sentences as I am intensely in favor of giving the prisoner a chance to reform, aided by the most modern methods.

These methods are embodied in the juvenile court laws, probation, the establishment of state schools of industry, to take the place of prisons for boys and girls, adult reformatories instead of penitentiaries, the indeterminate sentence and the parole system.

The Prison Reform League, on behalf of which I speak, is working for the abolition of capital punishment, as being the quintessence of the philosophy of revenge; reform of the administration of the criminal law, and restraint to be for the sole purpose of protecting society and reforming the offender.

Again I say, without fear of successful contradiction, that if all states would do away with the fee system, apply the "Golden Rule" method, as it is now in operation in Cleveland, O., in the making of arrests, and convert penitentiaries into modern reformatories, under civil-service rules, adopting also the indeterminate sentence and pursuing a generous policy in the granting of paroles, crime would decrease, society would be far better protected than it is at present, and the expenses of running the government would be reduced enormously.

The average citizen has neither the time nor the inclination to investigate these matters. Fortunately I have both, and I expect to use my knowledge for the lasting good of my fellow-men.

Let us all make an effort to do something for helpless humanity. Is it not a duty we owe to the prisoner, to the state and to society? In the name of justice I appeal to you as citizens of this great state to place California toward the front in the onward march of civilization.

The objects of the Prison Reform League, which issues this book, are stated thus in the blanks it sends out for signature: (1) The abolition of capital punishment, that the state may no longer swell the list of murders by becoming itself a murderer. (2) Reform of the administration of criminal law, a task that the United States has not undertaken since it became a nation. (3) Restraint to be for the sole purpose of protecting society and reforming the offender.

There are no fees or dues, expenses being met entirely by voluntary contributions, and officers receive no salaries. The secretary and treasurer of the league is Col. Griffith J. Griffith, whose address is 443 S. Main St., Los Angeles, Cal., and a branch office is maintained in Chicago.

There are at present about 4000 members in California, and many signatures have been obtained in Illinois and other states. As yet the league has devoted itself far more to the creation of an indignant public opinion than to organization work. It has been issuing to more than three hundred papers weekly a syndicate letter dealing with the various phases of the subject contained in this book, and has sought, above everything, during the short period it has been in existence (it was formed the latter part of April, 1909) to create a strong literary movement that should turn the light remorselessly on present conditions. With this end in view it has maintained an extensive correspondence with men and women throughout the country who are recognized as capable workers and in sympathy with its aspirations.



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